

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 13-270

ATIBA WARREN,  
Defendant.

Transcript of Jury Trial Proceedings on Monday, October  
26, 2015, United States District Court, Pittsburgh,  
Pennsylvania, before Mark R. Hornak, District Judge.

APPEARANCES:

For the Government:

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Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1 (Proceedings held in open court; Monday, October 26, 2015.)

2 THE COURT: Good morning, everyone.

3 This is the date and time set for jury selection in  
4 trial in the case of the United States of America versus  
5 Atiba Warren, pending on the docket of the Court at 13-CR-270.

6 Will counsel for the United States please enter  
7 their appearance.

8 MS. KING: Good morning, Your Honor. Katherine King  
9 for the United States.

10 THE COURT: Good morning, Ms. King.

11 MR. ORTIZ: Jonathan Ortiz.

12 THE COURT: Good morning, Mr. Ortiz.

13 Will counsel for Mr. Warren please enter his  
14 appearance.

15 MR. SINDLER: Mark Sindler.

16 THE COURT: Good morning, Mr. Sindler.

17 Mr. Warren is seated next to you at counsel table.

18 MR. SINDLER: Yes.

19 THE COURT: In a few moments we'll bring the jury  
20 panel up for jury selection in the case. I just wanted to go  
21 over a few matters before we did that.

22 First, last week, we posted the Court's proposed  
23 voir dire and proposed opening instructions to the jury.

24 Ms. King, does the United States have any objections  
25 or requested modifications to any of those?

1 MS. KING: Just one very minor one.

2 Mr. Ortiz is going to be giving the opening  
3 statement, so I think in the proposed jury instructions you say  
4 that counsel for the government will give her opening  
5 statement, so it will be "his."

6 THE COURT: Other than that?

7 MS. KING: No, Your Honor.

8 THE COURT: Mr. Sindler, same questions of you?

9 MR. SINDLER: Nothing from us.

10 THE COURT: In terms of the voir dire, on the one  
11 question where we go through the list of witnesses, I've placed  
12 in all the names from each of your lists. When we get to  
13 Mr. Steven Sywyj, I intend on not only stating it but spelling  
14 it because someone may have seen the name spelled but not heard  
15 it. The articulation of it is so significantly different than  
16 the spelling, just for completeness, in case somebody might  
17 know him by spelling and not by pronunciation.

18 Any objection with that, Mr. Sindler?

19 MR. SINDLER: No.

20 THE COURT: Ms. King?

21 MS. KING: No.

22 THE COURT: Will Mr. Scullli be seated with you at  
23 counsel table during jury selection and the trial?

24 MS. KING: Yes, Your Honor.

25 THE COURT: I will add his name.

1           Ms. King, I note that on your witness list, there  
2 are a number of people in law enforcement. Will any of them be  
3 testifying or being proposed to be testifying in uniform?

4           MS. KING: No, Your Honor.

5           THE COURT: I'm not saying there is anything wrong  
6 with that, I just thought we ought to talk about that.

7           So those will all be good to go.

8           I'm not going to raise this during voir dire or the  
9 opening instructions, but in looking at the proposed final  
10 instructions from each of you, it would appear that the parties  
11 are stipulating or not contesting to two facts, that the  
12 firearm that the United States will be saying is involved in  
13 this case was manufactured outside of Pennsylvania.

14           Is that a stipulation, or a not contested fact, or  
15 neither?

16           Ms. King, what is your position?

17           MS. KING: We believe it's a stipulation.

18           MR. SINDLER: I don't. I'd like to explain myself,  
19 if I can.

20           Ms. King and I have differences of opinion with  
21 regard to how the matter of the interstate commerce element  
22 comes into this case, which is I think what you're referring  
23 to, that the firearm traveled in interstate commerce. I find  
24 in the course of my work there is a difference between  
25 stipulating to what somebody would have said and whose

1 testimony is not needed and, therefore, you can accept or give  
2 whatever weight you want to that person's testimony versus the  
3 effect of giving that evidence what I would call judicial  
4 notice.

5           THE COURT: Actually, I think there are three  
6 levels. I think the parties could agree that if John Jones  
7 came to court and testified under oath, he would say X.

8           Then I would tell the jury, they give that whatever  
9 weight they choose to give it.

10           I think the parties can also stipulate, counsel can  
11 stipulate on behalf of their clients that on Tuesday, Jones was  
12 wearing a red sweatshirt.

13           I would still tell the jury, it's a stipulation, no  
14 further evidence is required, but because you're the judges of  
15 the facts, you and you alone will determine whether Jones was  
16 wearing a red sweatshirt on Tuesday.

17           The third level is judicial notice. I instruct the  
18 jury that a fact is conclusively determined.

19           So, I think case law says those are the three  
20 levels.

21           MR. SINDLER: We're open, and we're willing to agree  
22 that as to the interstate commerce element. I think that Kevin  
23 Kaufmann would be the one to come in and testify. I think he's  
24 an ATF investigator. I would say that this item traveled in  
25 interstate commerce. I'm agreeing or allowing the government

1 to say that we don't need Mr. Kaufmann to come in, but had he  
2 taken the stand, this is what he would have said. I think we  
3 potentially have it as a jury instruction where you would then  
4 tell the jury that this is what this man would have said, you  
5 can give it whatever weight you believe is appropriate.

6 THE COURT: You and you alone, as the judges of the  
7 facts, determine whether it did or didn't move in interstate  
8 commerce.

9 Ms. King?

10 MS. KING: Your Honor, that is our proposed  
11 stipulation. I had sent that to Mr. Sindler.

12 THE COURT: I view it as a stipulation and not as a  
13 judicial notice.

14 MS. KING: Yes.

15 THE COURT: The other thing is it appears that the  
16 parties, to the same level, stipulate that as of the date  
17 listed in the indictment, Mr. Warren had previously been  
18 convicted of a crime punishable by more than one year in  
19 prison.

20 Is that contested, Ms. King?

21 MS. KING: Not in our view.

22 THE COURT: Mr. Sindler?

23 MR. SINDLER: It is, for the same reasons. I don't  
24 know how the government would have brought in this evidence had  
25 we not agree or tried to agree to a stipulation, maybe a

1 records custodian, I'm not sure, but a person would come in to  
2 testify to say that this record belongs to Mr. Warren.

3 THE COURT: They bring a certified judgment in of  
4 conviction.

5 MR. SINDLER: That's fine. I would say that in lieu  
6 of having to bring in a certified judgment of conviction, that  
7 we stipulate that that document or that piece of paper or that  
8 item is not needed, and, therefore, you can accept that had  
9 this document been brought in or been given to you for  
10 deliberation purposes, that you can give it whatever weight you  
11 believe is appropriate.

12 THE COURT: You're not --

13 Ms. King, are you asking me to take judicial notice  
14 of the fact that Mr. Warren had previously been convicted of a  
15 crime punishable by more than one year in prison?

16 MS. KING: No, Your Honor.

17 What we are asking and what I had sent to  
18 Mr. Sindler last week is the following stipulation, and I will  
19 read it.

20 The United States and Atiba Warren stipulate and  
21 agree that Atiba Warren was convicted of a crime in state  
22 court, that that crime is punishable by imprisonment for a term  
23 exceeding one year, and that the prior conviction occurred  
24 before October 23, 2012, the date that Atiba Warren is alleged  
25 to have possessed the firearm charged in the indictment.

1           That's the stipulation.

2           THE COURT: Mr. Sindler, do you agree to that  
3 stipulation?

4           MR. SINDLER: I don't.

5           THE COURT: Okay. So then what happens, Ms. King?

6           MS. KING: We can put in -- we have the certified  
7 conviction which says he was convicted of armed robbery and  
8 that will go into the jury. We're trying to avoid that for the  
9 defendant, but we can put that in. I'm happy to do that.

10          MR. SINDLER: That's fine. Just that that --

11          THE COURT: No, are you saying it's fine that the  
12 United States will put in a certified conviction showing that  
13 Mr. Warren had previously been convicted of armed robbery?

14          MR. SINDLER: I was trying to explain what I meant  
15 by "that's fine." I had not seen the certified conviction. I  
16 wasn't aware of how the government was planning to proving that  
17 point had we not come to a stipulation. The state of matters  
18 is that right now we're disagreeing about it. I'd like to look  
19 at the certified conviction or certified judgment, share what I  
20 see with my client, and try to reach some kind of resolution  
21 where it is a stipulation and we're not going to bother the  
22 Court about it any further.

23          THE COURT: I'm not bothered. I just want to know  
24 so that both counsel know what they have to put into evidence.

25          MS. KING: We would appreciate --



1 THE COURT: I play them as they lie.

2 MS. KING: We would appreciate to know that before  
3 opening arguments, Your Honor.

4 THE COURT: This is all going to get worked out for  
5 both sides before we do openings.

6 Can you show Mr. Sindler the certified judgment of  
7 conviction that you have?

8 MS. KING: I can. It's in my office.

9 THE COURT: You can have it brought up.

10 MS. KING: Yes.

11 THE COURT: We'll make sure before anyone has to do  
12 an opening statement to the jury we have these things ironed  
13 out.

14 Ms. King, I note in your notice of 404 and 609  
15 material, you indicate that should Mr. Warren elect to take the  
16 stand, the United States may using the application of 609(a)  
17 seek to impeach him.

18 Am I reading your filings correctly?

19 MS. KING: Yes, Your Honor.

20 THE COURT: At some point, I'm going to need -- you  
21 reference the pre-plea report which contains the criminal  
22 history of Mr. Warren. At some point before all that happens,  
23 I'm going to need to know exactly what -- and Mr. Sindler is  
24 going to need to know exactly which offenses in there you would  
25 seek to invoke 609(a) on so I can do the balancing test.

1 MS. KING: Yes, Your Honor, tomorrow morning we can  
2 provide that.

3 THE COURT: Okay.

4 Now, the motions in limine that Mr. Sindler filed  
5 over the weekend.

6 As I understand it, there are two things. Something  
7 about --

8 Mr. Sindler, if I understand your motion, you  
9 believe there's reference to some separate event involving an  
10 arrest at the property in question here that you have reason to  
11 believe the United States may seek to use?

12 MR. SINDLER: Yes. I note -- I don't know if  
13 they're going to. They might use it as what I was told or  
14 heard or learned rather Friday afternoon. Ms. King shared with  
15 me a very brief account that occurred or that was posted on an  
16 Internet website the same day two and a half years ago,  
17 concerning my client being taken down from a home that was  
18 probably 520 Lincoln Avenue by members of a fugitive squad with  
19 the Allegheny County Sheriff's Department because he was  
20 supposedly on a most-wanted list.

21 THE COURT: Referencing the arrest involved in these  
22 events or a different arrest?

23 MR. SINDLER: No, involving this event. Apparently,  
24 he didn't show up -- apparently, didn't show up for some  
25 proceeding that this case evolved initially from, state court

1 proceedings.

2 THE COURT: Ms. King, you filed a response  
3 yesterday?

4 MS. KING: Yes, Your Honor.

5 THE COURT: At 5:20 p.m. that I think said whatever  
6 Mr. Sindler was concerned about wasn't going to be part of the  
7 United States' case in chief.

8 What is it that is going on here in?

9 MS. KING: Your Honor, we just became aware on  
10 Friday, and Mr. Sindler is correct, apparently, the defendant  
11 was on a fugitive list for not showing up for court in state  
12 court in this case, and the sheriffs went out and arrested him  
13 at 520 Lincoln Avenue in February of 2013.

14 THE COURT: Which was?

15 MS. KING: Prior to time he was indicted federally  
16 and is the same location he was arrested originally in October  
17 of 2012 with the gun in this case.

18 Just this morning, we received a copy of the  
19 sheriff's report regarding that arrest, and so I have it. It  
20 has Mr. Warren's Social Security number, we just redacted it.  
21 I'll give Mr. Sindler a copy. We're putting him on notice that  
22 we obtained more information that we might consider introducing  
23 in some fashion at trial. That's all, we're trying to be as  
24 forthcoming as possible.

25 THE COURT: You should give that to Mr. Sindler.

1           Based on what you know now, what is it you think it  
2 is possible the United States might do?

3           MS. KING: At this time, Mr. Ortiz and I have yet to  
4 discuss it, but generally I think we would use it for  
5 impeachment purposes if some witness were to testify going --  
6 contrary to what is documented in this report. We may use it  
7 for impeachment purposes or in a rebuttal case. I can't  
8 foresee --

9           THE COURT: So if somebody said Mr. Warren was never  
10 at 520 Lincoln Avenue?

11          MS. KING: Right.

12          THE COURT: Ever?

13          MS. KING: Ever.

14          THE COURT: Then we get into a 403 question, might  
15 be relevant, but the question is is it so relevant that it  
16 outweighs the prejudice of the circumstances that you would  
17 attempt to prove he was at 520 Lincoln Avenue.

18          MS. KING: That's correct.

19          THE COURT: If you think that's --

20          MS. KING: We also believe that it could be  
21 considered 404(b) evidence in a certain circumstance, Your  
22 Honor, given the fact that the circumstances of this arrest  
23 were that the sheriffs showed up to arrest Mr. Warren, and they  
24 saw an individual peering out of the window, and they were  
25 saying we have an arrest warrant, we have an arrest warrant,

1 and no one came to the door. So eventually they had to breach  
2 the door. As they entered the house, they were saying things  
3 to the effect, it's the sheriffs, we have a warrant, let me  
4 hear your voice. They heard no voice. And they ended up  
5 finding Mr. Warren under a bed and hiding from being arrested.  
6 So, we do believe that this could be consciousness of guilt,  
7 trying to avoid arrest for this very incident.

8 THE COURT: For this incident?

9 MS. KING: Yes.

10 THE COURT: For the one that is involved in this  
11 indictment?

12 MS. KING: Yes, Your Honor, because he was  
13 originally arrested in October with this gun and was supposed  
14 to go to court to appear to defend himself for that arrest.

15 THE COURT: In state court?

16 MS. KING: In state court, and was then a fugitive  
17 from appearing in state court, and then was arrested so that he  
18 could make his appearance in that case.

19 THE COURT: Well, I guess it is the same thought, if  
20 you sense that the United States wants to go down that road,  
21 then you're going to have to tip me off, and Mr. Sindler off  
22 because we have to have -- I don't think the Court of Appeals  
23 calls it yet, but I have a feeling it's going to become the  
24 nomenclature, we'll have to have a Caldwell hearing, a little  
25 104 hearing but specific to Caldwell because I do have to go

1 through the four-step analysis and one -- well, counsel and the  
2 courts will overtime read Caldwell as they read it, but I do  
3 think that there is a high level of precision specifically now  
4 required of the district judges. I'm not saying it wasn't  
5 required in the past, but it's very specifically required now.  
6 We'd have to go through all of that to determine the relevance,  
7 the non-propensity use, the 403 balancing, and then if it  
8 passed muster under all of those, what and when the limiting  
9 instruction would be given to the jury. So if you're headed  
10 down that road, if you think the United States is head down  
11 that road, Mr. Sindler, you have preserved your objection with  
12 the motion in limine. You'll have to give notice and then  
13 we'll figure it out.

14 Mr. Sindler.

15 MR. SINDLER: Can I be heard?

16 THE COURT: Absolutely.

17 MR. SINDLER: I would have to look in my book, but I  
18 think 404(b) allows us reasonable notice. I don't want to wait  
19 until tomorrow to get notice that as part of the government's  
20 case in chief, we plan on using --

21 THE COURT: She said they're not going to use it in  
22 their case in chief.

23 Are you going to use it in your case in chief?

24 MS. KING: Probably not, Your Honor.

25 THE COURT: Well, there's a difference between

1 probably not and we know we're not.

2 MR. ORTIZ: Judge, just so that it's clear, we  
3 became aware of this late on Friday. We still haven't spoken  
4 with the officers. We don't know whether or not we have a  
5 witness that could testify in a way that is meaningful for the  
6 trial, so we had told Mr. Sindler, and I think our filing with  
7 the Court even said that until we speak to him and know exactly  
8 what it is we do or don't have, we can't say what the purpose  
9 is going to be. So that's why at this point we have to sort of  
10 couch our statement as to whether or not we would use it on our  
11 case in chief.

12 THE COURT: Okay. That's fair, but the longer it  
13 goes, the more the prejudicial value or the prejudicial effect  
14 would accumulate.

15 I will also say this. I'm not prejudging anything,  
16 but I think the concept of consciousness of guilt is pretty  
17 soupy to start with. I think there's a difference between  
18 being caught at the gate at the airport headed to Bolivia and  
19 being under your bed. There's probably a lot of real estate in  
20 between there, but my first inclination is if the reason it  
21 would be offered would be to show some consciousness of guilt,  
22 let's assume you have a sheriff come in and say, I was there,  
23 this is what I personally witnessed and observed happen. It  
24 seems to me that the potential relevance of that is  
25 significantly outweighed by the circumstances because you'd

1 have a law enforcement officer, we'd be getting into a separate  
2 proceeding, if you will, regarding the enforcement of the  
3 criminal laws as opposed to, for instance, a civilian that sees  
4 somebody charged with a crime hightailing it out of a  
5 neighborhood or out of town or something like that.

6           So, I think you're going to have to decide, and then  
7 you're going to have to let Mr. Sindler know and you're going  
8 to have to let me know.

9           If I have to pause the proceedings, Mr. Sindler, to  
10 let you look at it, I'll do it.

11           MR. SINDLER: Two things. One, I know personally  
12 the sheriff department has personnel that work on these task  
13 forces on a regular basis and they have for years now. The  
14 government is presumed to have known as of two and a half years  
15 ago, regardless of when the U.S. Attorney's office found out  
16 about this event two and a half years ago at 520 Lincoln  
17 Avenue. Mr. Ortiz is saying we just learned about it on  
18 Friday. This has been known to law enforcement with whom they  
19 work for a good amount of time.

20           THE COURT: There is no such presumption,  
21 Mr. Sindler. What is known or not known -- now, that doesn't  
22 mean that you and Mr. Warren's position may not be prejudiced  
23 and you'll have a winner on that, but it's not because Ms. King  
24 and Mr. Ortiz are presumed to know what Sheriff Mullen and his  
25 assistants are up to.



1 MR. SINDLER: The second thing is from my quick  
2 research over the weekend, it appears that consciousness of  
3 guilt in various opinions I've looked at, primarily from this  
4 circuit, deal with two things. One, risk -- not risk, flight  
5 from the jurisdiction in which the person is supposed to be  
6 found or reporting. And then No. 2 would be witness tampering.  
7 We don't have either one of those things in this case. We do  
8 have hiding. Hiding is not known to be -- I have not yet found  
9 a case where that's an indication of consciousness of guilt.

10 THE COURT: I think that's why I drew the  
11 distinction between being at the gate headed to Bolivia and  
12 hiding under a bed. We'll see how it plays out.

13 Secondly, Mr. Sindler, you filed another motion in  
14 limine regarding four photographs which have been described in  
15 Ms. King's response filing as essentially two versions of each  
16 of two photographs relative to serial numbers on the I guess  
17 trigger guard area and barrel of the firearm in question.

18 What is exactly the objection?

19 Let me ask this. Ms. King, what do you intend on  
20 doing? And then we'll make sure there is still an objection.

21 MR. ORTIZ: Your Honor, as you know from the  
22 statement that was listed at the time of arrest, Mr. Warren  
23 admitted he knew the serial number had been scratched off when  
24 he bought the gun.

25 THE COURT: It's my understanding there will be

1 testimony to that effect.

2 MR. ORTIZ: Exactly. During the course of the  
3 trial, we have an expert, someone from the county crime lab --

4 THE COURT: Mr. Best.

5 MR. ORTIZ: Mr. Best, who examined the firearm and  
6 took those pictures. So the pictures are simply what it looked  
7 like before the number was resurrected and then afterwards.  
8 That's all it's for. The indictment itself actually lists the  
9 specific serial number as attributed to this very firearm. So  
10 being able to put that testimony in, obviously, is something  
11 that we need to do, and we're going to do that through Bill  
12 Best. That is the purpose of these four photographs, to  
13 explain it to the jury, to show them exactly the process that  
14 is walked through by way of his examination of the gun.

15 THE COURT: As I read the papers last night from the  
16 United States, it's to show that when the gun was received at  
17 the crime lab or at the bureau where Mr. Best works, that the  
18 serial number was obliterated, so it was a Taurus Judge firearm  
19 with an obliterated serial number, then he's going to explain  
20 the mechanisms he used to unobliterate it.

21 MR. ORTIZ: Exactly.

22 THE COURT: Thank you, Mr. Ortiz.

23 Mr. Sindler?

24 MR. SINDLER: The second motion is headlined  
25 Exclusion of the Imagery. In asking for the relief at the end,

1 I made a mistake in asking to exclude his testimony about it.  
2 You had directed us to follow a deadline, which I think was  
3 October 8 by which this photography or exhibits and such could  
4 be either agreed upon or not agreed upon. The report that  
5 Mr. Best did has been around since January of 2013. I'm  
6 assuming that the photographs have been around as long because  
7 I'm not sure they would have been done any time later. So,  
8 again, it's something where -- I know this personally in this  
9 case where a deadline was breached by the government and if  
10 Mr. Best wants to testify to it, I would retract any part of my  
11 second motion in limine where I would seek to exclude that  
12 testimony, but the evidence or the exhibits were not given to  
13 me in time.

14 Now Ms. King says, well, the parties jointly or  
15 respectfully request we can amend or add to the exhibit list.

16 THE COURT: Had they been given to you six weeks  
17 ago, what would be different today?

18 MR. SINDLER: I don't know that anything would be  
19 different. I can't explain that to you right now, except that  
20 we were supposed to abide by a deadline.

21 THE COURT: You're right.

22 MR. SINDLER: And the information has been in their  
23 possession for two and a half years and I get it about five or  
24 six days ago. And, quite honestly, I think it's cumulative to  
25 his testimony. The fact of obliteration or defilement has no

1 bearing upon any of the elements stipulated to or not that the  
2 jury has to consider in whether or not Mr. --

3           THE COURT: I think it does. It makes more  
4 probable -- the government, based on their papers is going to  
5 argue it makes it more probable than not that this firearm was  
6 possessed by Mr. Warren because they say in their papers they  
7 will have testimony from which a jury could conclude that  
8 Mr. Warren was in the possession of a Taurus Judge firearm that  
9 had obliterated serial numbers. And they believe they have to  
10 prove to sustain a conviction beyond a reasonable doubt that  
11 this firearm was possessed by Mr. Warren, and one of its  
12 identifying characteristics is it had obliterated serial  
13 numbers. You'll argue how much weight any of that should be  
14 given, but it does make it slightly more probable than not.

15           MR. SINDLER: The testimony does, the photography is  
16 cumulative to that testimony.

17           THE COURT: I have a feeling there is going to be a  
18 lot of cumulative stuff in this trial on both sides, but how is  
19 that prejudicial, let alone unfairly prejudicial?

20           MR. SINDLER: I'm not able to articulate that right  
21 now, except that, one, the photography is cumulative, and we  
22 have four pieces of the photography, two that go before and two  
23 after the fact.

24           THE COURT: I'm going to deny that motion in limine  
25 without prejudice. I want to see the photography.

1 MS. KING: I have them here.

2 THE COURT: Before it goes on the stand, I'd like to  
3 see it.

4 MS. KING: Would you like to see it now?

5 THE COURT: Does Mr. Sindler have a copy of it?

6 MS. KING: I'll give it to him right now.

7 THE COURT: Counsel for the United States has  
8 delivered to counsel for the defendant and to the Court a  
9 three-ring binder that has several photographs in it.

10 She's directed the Court's attention to what has  
11 been premarked as Government's Exhibit 1C. I presume I should  
12 look at that. 1D, 1E and 1F.

13 Ms. King or Mr. Ortiz, 1C as in Charlie, through 1F,  
14 as in Frank.

15 MR. ORTIZ: Judge, just so you're clear as to  
16 exactly what you are looking at, 1C is the before picture of  
17 the serial number that was on the barrel of the gun.

18 1D is the after picture of the serial number that  
19 was on the barrel of the gun.

20 1E is the serial number on the receiver or the frame  
21 of the gun before.

22 And 1F is the photo of the serial number on the  
23 receiver or frame after.

24 THE COURT: Do you intend on arguing, Mr. Ortiz,  
25 should it become necessary, or even if it's part of the case,

1 that the photographs in 1E, as in Edward, and 1F, as in Frank,  
2 appear to say: Made in Brazil?

3 MR. ORTIZ: I think we have a stipulation as to the  
4 nexus, so there really won't be an argument on that point.

5 THE COURT: I'm going to deny the motion without  
6 prejudice. If it looks like it's overly cumulative or if  
7 there's some specific prejudice, let alone substantial  
8 prejudice, or what I'll call outweighing prejudice,  
9 Mr. Sindler, we'll hear you at the appropriate time.

10 Mr. Babik, I'll hand that to you.

11 That then leaves Defense Exhibit J, the automation.

12 I've not entered a written ruling on it. I've read  
13 the material each of you have submitted. I've watched Defense  
14 Exhibit J a number of times. I think under the Altman rule,  
15 which appears to be the controlling rule of law in our circuit,  
16 although I would note it appears it's in an unpublished  
17 opinion, it says when demonstrative evidence closely resembles  
18 the actual accident, there it was a products liability case,  
19 the courts generally require the proponent to establish that  
20 the demonstration shares substantial similarity to, in that  
21 case, the accident conditions. By contrast, if the  
22 demonstration does not appear to recreate the accident, Rule  
23 403 generally does not require a foundational showing of  
24 similarity with accident conditions.

25 Judge Aldisert writing for the court went on to say:

1 The test is not one of labels, but whether the demonstration is  
2 sufficiently close in appearance to the original accident to  
3 create the risk of misunderstanding by the jury, for it is that  
4 risk that gives rise to the special requirement that show  
5 similar conditions.

6           In reflecting on the record in that case, Judge  
7 Aldisert said that the trial court, in this case Judge Ambrose,  
8 had carefully considered the objection, determined that unfair  
9 prejudice, confusion could be mitigated by cross-examination  
10 and limiting jury instructions, and concluded that the jury  
11 understands it is not an accident reconstruction. And went on  
12 to explain that the depiction that Altman used was a series of  
13 sketches interspersed with brief animations that was, quote,  
14 not at all lifelike. Clearly, to quote Judge Aldisert, clearly  
15 illustrates Ferrone's testimony and does not appear even  
16 remotely to be a recreation of the accident.

17           Then he goes on to say: To remove all doubt, the  
18 court instructed the jury that the animation was not a  
19 re-creation and highlighted differences between the animation  
20 and the facts as adduced at trial.

21           One important distinction in sort of the procedural  
22 and factual setup between what we have here and in Altman was  
23 we had an expert, essentially an engineer, talking about  
24 product safety using a simulation as to which there was really  
25 no need for in that case, explanation of how it came to be.

1 Here, it's sort of all merges with Mr. Johnson.

2 Having reviewed the animation at Defense Exhibit J,  
3 I conclude that it is and -- it is a re-creation. That doesn't  
4 mean it can't be used, but it is for purposes of the Altman  
5 test, it would appear to any rational viewer as re-creating the  
6 scene of the events on the night when these matters in this  
7 case occurred.

8 Ms. King, as I understand, and Mr. Ortiz, as I  
9 understand the objection to that, this is at Page 2 of ECF 122,  
10 the United States says here Exhibit J cannot be seen as  
11 anything other than an attempted re-creation of the scene on  
12 the night in question.

13 Putting aside what is attempted or not attempted, I  
14 think that it is, except for the light, which is a very big  
15 except. The United States says, well, Ms. Hayes may be able to  
16 testify to the layout of the building in the animation is  
17 substantially similar to her residence, she cannot testify that  
18 the prospective and trajectory of the video is substantially  
19 similar to Officer Sywyj's perspective on October 23, 2012.  
20 The point of view of this animation has no basis in the record.  
21 For example, the positioning of the point of view of the  
22 animation within the door frame, i.e., where within the 3 to 4  
23 foot wide door frame the animation enters the residence and the  
24 exact trajectory of the animation as it enters the residence  
25 has no basis in the record.



1           Let me ask you this, Ms. King and Mr. Ortiz, if that  
2 animation had been shown, and I've already ruled that if it  
3 would be used, there would not be a human figure in it, if the  
4 animation had previously been shown to Ms. Hayes, and I don't  
5 think it was at the suppression hearing, and was shown to  
6 Officer Sywyj, and they said one way or the other how it looked  
7 the same or didn't look the same, would that have resolved,  
8 potentially resolved that issue?

9           MS. KING: No, Your Honor, because I think as has  
10 been brought up in Altman and as the Court has indicated, the  
11 jury will bring this exhibit back to the jury room --

12           THE COURT: That's a if I allow it in as actual  
13 evidence, as opposed to a demonstration aid to illustrate  
14 someone's testimony.

15           I agree with you, it is so powerful it would be hard  
16 to not have it be evidence, but also let it be shown.

17           But that being said, please continue.

18           MS. KING: Yes, Your Honor, but I guess so the only  
19 person whose testimony this could be seen to demonstrate would  
20 be Officer Sywyj. I don't recall if I have shown him this  
21 re-creation. He might have been shown this at the suppression  
22 hearing.

23           THE COURT: I don't believe he was.

24           Was he shown this at the suppression hearing?

25           MR. SINDLER: He was not.

1 THE COURT: I didn't think so.

2 I'll cut to the chase. Aren't I obligated -- maybe  
3 that's stating it too strongly --

4 Mr. Sindler, do you want a Rule 104 hearing on that  
5 demonstration?

6 MR. SINDLER: Before I answer that, can I just speak  
7 briefly.

8 I'm reiterating something that you've already read  
9 in one of my pleadings and that is, how else could Mr. Sywyj  
10 have seen my client? It's the perspective that we're trying to  
11 show. He didn't look around the corner or through a wall --

12 THE COURT: That's why I think it's a re-creation.

13 MR. SINDLER: You are right.

14 THE COURT: But until Sywyj says or somebody says  
15 that is or isn't what it looks like but for the lighting, and  
16 the lighting is a pretty big but for here. I'm not sure I can  
17 exclude it or let it in. That's why I'm wondering if we need a  
18 104 hearing.

19 MR. SINDLER: That's fine by us. I'm not sure, I'm  
20 not ready to do so right at this moment because this is the  
21 first --

22 THE COURT: It would be pretty soon.

23 MR. SINDLER: It would be pretty soon.

24 MS. KING: Your Honor, it's also not just the  
25 lighting. There's no furniture in here. I think to put

1 Officer Sywyj on the stand and say, is this exactly what you  
2 saw? Clearly, it's not exactly what he saw. Is he going to  
3 say, I was taller, I was shorter, I was a little bit more to  
4 the left, I was a little bit more to the right. I just think  
5 that it's too much -- it's too prejudicial. It's too much to  
6 expect -- he's testified this is what I saw. For him to say --  
7 he wasn't there when then animation was created. We don't have  
8 it --

9 THE COURT: I didn't sense the United States was  
10 arguing that Mr. Johnson's techniques were flawed or lacking in  
11 some way.

12 MS. KING: No, not necessarily. But with respect to  
13 where exactly, as I've said in my papers, this animation  
14 occurred, the door was wide open, as Officer Sywyj testified,  
15 he could have been standing all the way over on the left.

16 THE COURT: He said the security door was wide open,  
17 his memory was not precise on whether the screen door was open.

18 MS. KING: Yes, but he could have been standing all  
19 the way on the left of the door and he would have a completely  
20 different perspective than this video. If that's what he  
21 testifies to, the animation is not --

22 THE COURT: Mr. Sindler, let me ask you this. If I  
23 had allowed J in, at what procedural juncture of the trial do  
24 you anticipate using it?

25 MR. SINDLER: I would be using it during

1 Mr. Johnson's testimony because he's the one who created it.  
2 We would indicate during that part of his testimony that the  
3 widest perspective was used or employed because -- take what  
4 Ms. King said, I would agree that from an argument standpoint,  
5 let's say Mr. Sywyj was standing at the far left. The farther  
6 you are to the left or the right of the doorway in which he was  
7 stationed, the less of a perspective you have to see somebody  
8 like Mr. Warren standing in that passageway or just inside the  
9 middle room.

10 THE COURT: I understand the argument, but just so I  
11 know for sure, if I had ruled that J was in, if I rule right  
12 now that J is in, you do not intend on using it during Sywyj's  
13 direct or cross or redirect or recross?

14 MR. SINDLER: No, because I expect or could  
15 anticipate what his testimony would be.

16 THE COURT: Well, we all -- the world full of  
17 surprises.

18 Ms. King.

19 MS. KING: I'd also like to remind the Court that  
20 Travis Johnson at the suppression hearing specifically said  
21 this re-creation is not intended to recreate what the human eye  
22 could see.

23 THE COURT: That's when we were using ones that had  
24 different lighting.

25 MS. KING: Yes, Your Honor, but just generally I

1 might have a broader range of vision in my own eyes to the left  
2 and right than Mr. Ortiz might or this video might, so to show  
3 it to the jury as a re-creation, we didn't take any testimony  
4 on that as to how wide it was, but I do think that this is  
5 different than what the human eye could see.

6 THE COURT: Appreciate that, Ms. King.

7 Appreciate that, Mr. Sindler.

8 Here's what we're going to do. My ruling that the  
9 motion in limine as conditionally granted stands. No one can  
10 make reference to J until I have the definitively ruled on it,  
11 which means not referenced in anyone's opening, direct, cross,  
12 redirect during the government's case in chief.

13 I'll hear after that is done, before you put --  
14 before, Mr. Sindler, you decide whether you're going to put any  
15 witnesses on the stand, I'll revisit this. I'm not going to  
16 excuse Officer Sywyj to go about his business so that we can't  
17 find him. I'll make a determination after the government's  
18 case comes in and there's been all that examination whether we  
19 need to outside the presence of the jury have a short 104  
20 hearing on the admissibility of J.

21 I think it is a re-creation. That doesn't make it  
22 inadmissible, Mr. Sindler. We'll see what foundation occurs as  
23 a consequence of Officer Sywyj or anybody else during the  
24 government's case. We may -- I may reoffer up Mr. Sindler an  
25 opportunity to have a 104 hearing on the admissibility of J and

1 it's use during your case on Mr. Warren's behalf. I would --  
2 it will not be taken as untoward by the Court if before we  
3 proceed you remind me that you think you want to do something  
4 with J with Mr. Johnson, or with somebody else, and we'll make  
5 sure there's an opportunity to take that up as need be outside  
6 the presence of the jury, and I'd make a ruling under the  
7 Altman standard as to whether J comes in.

8 I will say with the human figure out of it, it may  
9 be something that would be helpful to the jury, and I see it as  
10 Judge Aldisert said in Altman as principally being a 403  
11 question, in essence, is it so effective at misrepresenting  
12 something that its prejudicial effect outweighs the probative  
13 value it might have to the jury. But with the human figure not  
14 in it, there may well be a basis to have it come in. We just  
15 may need to determine what the foundation is. So that's my  
16 ruling on Defense Exhibit J for the moment.

17 Are there any other matters, Ms. King or Mr. Ortiz,  
18 that we should take up or the Court should resolve before we go  
19 and get our jury panel?

20 MS. KING: No, Your Honor.

21 THE COURT: Mr. Sindler, same question of you?

22 MR. SINDLER: Two things.

23 Mr. Babik and I spoke on Friday and he sent me an  
24 e-mail afterwards that is limiting my ability to address the  
25 jury during the summation.

1 THE COURT: How is that?

2 MR. SINDLER: I don't mean disrespect to the Court,  
3 but it is something I thought Mr. Babik said would be brought  
4 up.

5 I have conducted jury trials in a couple of other  
6 courtrooms where I have been permitted to be behind the  
7 government's table, and it has not been in one of these  
8 courtrooms, which I think is an original courtroom to the  
9 building from when it was built.

10 THE COURT: It is.

11 MR. SINDLER: It's the newer ones to which I was  
12 just speaking. I don't pace a lot, I don't wear holes in the  
13 carpet, but to limit me to an area which I think if I  
14 understood his e-mail correctly to just in front of the witness  
15 stand --

16 THE COURT: Oh, no, you can go up and down the jury  
17 rail.

18 MR. SINDLER: Conceptually leaves me at a  
19 disadvantage. This is subjective opinion on my part with the  
20 respect to the people who are at the further end of the jury  
21 box, the alternates --

22 THE COURT: You can go up and down the jury rail.

23 MR. SINDLER: I got a different sense -- I'm not  
24 trying to disparage Mr. Babik --

25 THE COURT: Mr. Babik asked me about this. My view

1 of behind the government table is behind the government table.

2 That's different than being parallel to the jury box.

3 MR. SINDLER: But I'm going to be limited, though, a  
4 bit because there's going to be apparently a TV set up where  
5 their stand is currently located and I'm not permitted to block  
6 a TV. I don't want to block a TV if somebody is trying to look  
7 at it.

8 THE COURT: Are you going to have the TV on during  
9 your closing?

10 MR. SINDLER: I am, but we're going to have a second  
11 TV --

12 THE COURT: Well, it seems to me you're running your  
13 own risk then. If you want to block material you've put up on  
14 the TV, that's your business. What would be a problem is if  
15 Mr. Ortiz or Ms. King were blocking something you put up on the  
16 TV, or vice versa, you were physically blocking something  
17 Ms. King or Mr. Ortiz put on the TV, but if you're block what  
18 you put up on the TV, that's your business.

19 MR. SINDLER: I understand. I wanted to have that  
20 conversation.

21 THE COURT: We don't have people stand behind other  
22 people. It's just not a good idea.

23 Anything else, Mr. Sindler?

24 MR. SINDLER: No.

25 THE COURT: Anyone need a break, a momentary break



1 to use facilities before we bring the jury up?

2 MS. KING: No, Your Honor.

3 MR. SINDLER: I'm good.

4 MR. BABIK: The jury is ready for us.

5 (Jury panel enters the courtroom.)

6 THE COURT: Good morning, everyone.

7 I'm the United States District Judge Mark Hornak.

8 You have been summoned to our courtroom for the selection of a  
9 jury to serve in a trial of a criminal case. The case is  
10 entitled the United States of America versus Atiba Warren.

11 Ladies and gentlemen, but for service in our United  
12 States military, serving as a juror in our justice system is  
13 the highest form of civic duty and responsibility which one is  
14 called upon to perform as a citizen in our form of government.  
15 Citizens sitting in judgment of the actions of fellow citizens  
16 is a basic tenet of our justice system, which we believe to be  
17 the fairest system in the world and which could not function  
18 without you.

19 We know that it is a personal and professional  
20 sacrifice, an inconvenience for you to be here, but it is truly  
21 very important and I will do everything in my power to make  
22 this a meaningful experience for you with as little  
23 inconvenience as possible.

24 Believe me, this trial is very important to all  
25 parties in the proceeding. Mr. Warren, the United States

1 government, and this Court, and we are all most appreciative of  
2 your participation as citizen jurors.

3           The trial of this case is estimated to last several  
4 days. We will commence trial as soon as the jury has been  
5 selected and sworn and then proceed daily for the requisite  
6 number of days needed to complete the trial. If we conclude  
7 selection of the jury today, we may not begin with more  
8 substantive proceedings until tomorrow.

9           The United States government is pursuing this case  
10 by an indictment, which is formal document used solely for the  
11 purpose of charging a defendant with having committed a crime  
12 and informing the defendant of the nature of the pending  
13 charges. It is merely a statement of charges. It is not  
14 evidence or proof of any criminal conduct. Under the law, a  
15 defendant is presumed to be innocent. The government has the  
16 burden of proofing the charge set forth in the indictment  
17 through witness testimony and evidence beyond a reasonable  
18 doubt.

19           The mere fact that Mr. Warren has been charged with  
20 criminal conduct and is present in this courtroom is not  
21 evidence or proof that he's guilty of anything. You should  
22 have no opinion as to his guilt at this moment in time. As a  
23 matter of fact, if you were called upon to render your verdict  
24 at this moment, under the law, you would have to find  
25 Mr. Warren not guilty. Why? Because by law, he is presumed to

1 be innocent, unless proven guilty beyond a reasonable doubt,  
2 and at this time, there's been no witness testimony or evidence  
3 whatsoever presented to establish guilt.

4           It is the jury's function to decide the facts of the  
5 case without bias or prejudice to the defendant or the  
6 government. The law does not permit jurors to be governed or  
7 influenced by sympathy, bias, prejudice or public opinion. You  
8 are at all times to be fair-minded.

9           Therefore, I must exclude from the jury anyone who  
10 has such strong feelings about the person or issues involved in  
11 the case that he or she is unable to evaluate the evidence  
12 impartially. The law also affords the government and the  
13 defendant the opportunity to participate in the jury selection  
14 process through the exercise of what are known as peremptory  
15 challenges or excusals, which means they will be permitted to  
16 exclude a number of prospective jurors from the case for any  
17 reason whatsoever. In fact, the lawyers must exclude a certain  
18 number of you to get to the requisite number of jurors for  
19 trial.

20           The jury in this case will consist of twelve members  
21 and two alternates. An alternate may take the place of any  
22 seated juror if a juror must be excused for any legitimate  
23 reason during the course of the trial. If none of the original  
24 twelve jurors is excused during the trial or deliberations, the  
25 alternate will be excused from further service. The alternates

1 will participate in all phases of the trial but will not  
2 participate in deliberations unless called upon to fill a slot  
3 as necessitated by some disability on the part of a seated  
4 juror.

5           To assist both the Court and the lawyers in the jury  
6 selection process, I will conduct what is known as voir dire.  
7 That means I will ask you certain questions about your feelings  
8 and experiences which might influence your thinking about the  
9 case. These questions are designed to supply information to  
10 both the government and the defense which will enable the  
11 lawyers to exercise their peremptory challenges more  
12 intelligently and effectively. Certain questions will be asked  
13 of you here in open court and other questions may be asked  
14 individually in a private setting out of the hearing of one  
15 another.

16           The exercise of peremptory challenges does not  
17 constitute any reflection whatsoever on the prospective jurors  
18 who are excused from deliberating on this case. It should not  
19 be interpreted as a decision that those persons who are excused  
20 are biassed or prejudiced. It simply means that the lawyers  
21 based on their trial experience, knowledge of the case, and the  
22 information learned through voir dire have decided that someone  
23 else should sit as a juror to hear and decide this particular  
24 case.

25           Now that I've explained the purpose of voir dire to

1 you, I will tell you a little bit about the case on which we're  
2 about to have a trial. I will not at this time explain the  
3 applicable laws to you, but in order that you have some  
4 familiarity with the case, which you may be selected to hear, I  
5 will read a summary of the indictment to you.

6           The grand jury has returned a one-count indictment  
7 against the defendant. Count One charges Mr. Warren with  
8 knowingly possessing a firearm in or affecting interstate  
9 commerce on or about October 23, 2012, in the Western District  
10 of Pennsylvania, after having been convicted of a crime  
11 punishable by imprisonment for a term exceeding one year.

12           As previously stated, the charge against the  
13 defendant is set forth in an indictment, which is simply the  
14 description of the charge made by the government against the  
15 defendant, but the indictment is not evidence that the  
16 defendant committed a crime or crimes. The defendant has pled  
17 not guilty to the charges.

18           A defendant is presumed to be innocent and may not  
19 be found guilty by you unless all twelve of the selected jurors  
20 unanimously find that the government has proved the defendant's  
21 guilt beyond a reasonable doubt as to such charge.

22           Mr. Warren is present in court and is seated at  
23 counsel table to my right with his attorney, Mark Sindler.

24           The Court would note for the record that they have  
25 been present since these proceedings began.

1           The attorneys for the government, Assistant United  
2 States Attorneys Katherine King and Jonathan Ortiz, are seated  
3 at counsel table to my left with law enforcement agent Steven  
4 Scullli.

5           The Court would note for the record they have been  
6 present since these proceedings began.

7           My courtroom deputy is Mr. Brian Babik, who is  
8 seated directly in front of me.

9           My judicial law clerks are Mr. Matt Greer and  
10 Mr. Kevin Zimmerman.

11           My judicial assistant is Ms. Judy Dressler, all of  
12 them are seated to my right, your left.

13           They are officers of the Court and will help with  
14 the selection of the jury.

15           The court reporter is Ms. Julie Kienzle. She's  
16 seated to my left, your right, and she will stenographically  
17 transcribe everything that is said in this proceeding.

18           Ladies and gentlemen, please rise and raise your  
19 right hand to be administered an oath.

20           Mr. Babik, please administer the oath to the jurors.

21           (Administration of the oath.)

22           THE COURT: Ladies and gentlemen, we're going to  
23 start the selection process by asking each of you to stand and  
24 answer aloud the questions which are on the preprinted data  
25 sheet that was provided to you this morning. One of my law

1 clerks will have a microphone that we will pass down and I ask  
2 you that you pass it to the next person so they can use it as  
3 you read your answers.

4           Please take your time, speak up loudly and clearly  
5 so that all of your answers will be heard and understood. If  
6 you do not understand any of the questions, please feel free to  
7 ask me for an explanation. As noted, if you do not understand  
8 any of the questions, please feel free to ask me for an  
9 explanation and we'll provide that.

10           Mr. Babik, we can now start with the first juror.

11           JUROR NO. 38: I am Juror No. 38. I am 61 years  
12 old. I live in Mars, Butler County, PA. I have lived there  
13 approximately 23 years. I own a home. I am licensed to drive  
14 an automobile. My educational background is high school with  
15 some college. My employer is the Davey Tree Expert Company. I  
16 am a crew leader. I am married. My wife's employer is Kohl's  
17 Department Store. I have two children, two boys, one is 20  
18 years old and third year of college, and an 18-year-old high  
19 school. I do not have an attorney.

20           THE COURT: Thank you, sir. Pass the mic to the  
21 next person.

22           JUROR NO. 7: I'm Juror No. 7. I'm 54 years old. I  
23 live in Uniontown, Fayette County. I have lived there  
24 approximately 20 years. I own my home. I am licensed to drive  
25 an automobile. My educational background is college and

1 professional. My major area of study was medicine. My  
2 employer is Fayette Physician Network. My job title is  
3 physician. My wife is a homemaker. I have two daughters, 16  
4 and 19, one in high school, one in college. I do not have an  
5 attorney.

6 THE COURT: Thank you, sir.

7 JUROR NO. 28: I am Juror No. 28. I am 55 years  
8 old. I live in Ardara, Westmoreland County. I have lived  
9 there approximately 18 years. I own my home. I am licensed to  
10 drive an automobile. My educational background is some college  
11 with a food service management. My employer is Allegheny  
12 Refrigeration Sales. My job title is sales account manager. I  
13 am married. My wife works for first national bank of  
14 Pennsylvania. She's a senior administrative assistant. I have  
15 no children. I am currently represented in a civil matter as a  
16 result of being in a car accident in May.

17 THE COURT: Thank you, sir.

18 JUROR NO. 5: I am Juror No. 5. I am 27 years old.  
19 I live in Sewickley, Allegheny County. I lived there for  
20 approximately 27 years. I own my home. I am licensed to drive  
21 an automobile. My educational background is college. My major  
22 was nursing. My employer is Verland. I am a direct support  
23 professional. I'm not married, I don't have any children and I  
24 don't have an attorney.

25 Juror No. 34: I am Juror No. 34. I am 60 years



1 old. I live in Amity, which is in Washington County. I have  
2 lived there approximately 35 years. I own my own home. I am  
3 licensed to drive. My educational background is college. I  
4 was a med tech biology major. My employer is Washington  
5 Hospital. My job title is medical technologist. I am married.  
6 My spouse works for the U.S. Postal Service. He is a mail  
7 carrier. I have one son. He is a electrician apprentice for  
8 IBEW and I do not have an attorney at this time.

9 JUROR NO. 16: Juror No. 16. I am 29 years old. I  
10 live in the city of Bridgeville, Allegheny County. I lived  
11 there approximately 20 years. I rent my home. I am not a  
12 licensed driver of an automobile. My educational background is  
13 college. My college major was elementary education and  
14 theater. My employer is the Allegheny Intermediate Unit.

15 Would you like further details on where I'm placed?

16 THE COURT: What location are you at?

17 JUROR NO. 16: Allegheny county jail.

18 My job title is educator. I am not married. I do  
19 not have any children, and I currently do not have an attorney.

20 JUROR NO. 47: Good morning. I am Juror No. 47. I  
21 am 37 years old. I live in Lemont Furnace and that's in  
22 Fayette County. I have lived there approximately ten years. I  
23 own my home. I am licensed to drive an automobile. My  
24 educational background is high school. My employer is Frick  
25 Tri-County Federal Credit Union. My job title is compliance

1 officer. I am married. My spouse's employer is McCabe  
2 Industrial. He is a project manager. I do have two children,  
3 eight and twelve. I do have an attorney at this time for a  
4 civil matter against my builder.

5 THE COURT: Thank you, ma'am.

6 JUROR NO. 24: I am Juror No. 24. I am 34 years  
7 old. I live in Verona in Allegheny County. I have lived there  
8 approximately 12 years. I own my home. I am licensed to drive  
9 an automobile. My educational background is college. My area  
10 of study was occupational therapy. My employer is Apex Rehab  
11 Solutions. My job title is occupational therapy assistant. I  
12 am not married. I do not have children and I do not have an  
13 attorney.

14 THE COURT: Thank you, ma'am.

15 JUROR NO. 57: I'm Juror No. 57. I am 42 years old.  
16 I live in Latrobe, Westmoreland County. I have lived there for  
17 six and a half years. I own my home. I am licensed to drive  
18 an automobile. My educational background is college and my  
19 major area of study was marketing. My employer is Audubon  
20 United Methodist Church. My job title is administrator. I am  
21 married. My husband works for X1 and he is in research and  
22 development. I do have a child, she's 11, and she's in  
23 elementary school. I do not have an attorney.

24 THE COURT: Thank you, ma'am.

25 JUROR NO. 8: I am Juror No. 8. I am 33 years old.

1 I live in McDonald, Allegheny County. I have lived there for  
2 approximately 25 years. I rent now. I am licensed to drive an  
3 automobile. I have two college degrees, one in IT, one in  
4 journalism. My employer is Continuum Management Services. My  
5 job title is service desk technician. I am not married. I do  
6 not have any children and I do not have an attorney.

7 THE COURT: Thank you, sir.

8 JUROR NO. 27: I am Juror No. 27. I am 67 years  
9 old. I live in Portersville, Butler County. I have lived  
10 there approximately 20 years. I own my home. I am licensed to  
11 drive an automobile. My educational background is about three  
12 and a half years of college which includes a two-year  
13 associate's degree in court reporting. My employer is Butler  
14 County courts. My job title is official court reporter. I am  
15 not married. I do not have any children. And the only  
16 attorney I have, Will & Price, is for preparing my will.

17 THE COURT: Thank you, ma'am.

18 JUROR NO. 20: I am Juror No. 20. I am 72 years  
19 old. I live in Murrys ville in Westmoreland County. I have  
20 lived there approximately 30 years. I own my own home. I am  
21 licensed to drive a car. My educational background is some  
22 college, studying engineering, business and adult education.  
23 My employer was since I'm retired Westinghouse Electric  
24 Corporation. My job title, last one was instructor. I am  
25 married. My spouse's employer is Samson Mars Realty. My

1 spouse's job title is clerk/receptionist. I have three  
2 children; 38-year-old daughter, union electrician; a  
3 40-year-old son works for 84 Lumber; and a 43-year-old son that  
4 works for the Hartford Insurance Company. I do not have an  
5 attorney at this time.

6 THE COURT: Thank you, sir.

7 JUROR NO. 56: I am Juror No. 56. I am 28 years  
8 old. I live in Monroeville in Allegheny County. I have lived  
9 there for approximately 13 years. I rent my home. I am  
10 licensed to drive an automobile. I went to college for art  
11 education. My employer is Medcare Equipment Company. I  
12 deliver medical equipment. I am not married. I do not have  
13 any children. I currently do not have an attorney.

14 THE COURT: Thank you, sir.

15 JUROR NO. 13: I'm Juror No. 13. 43 years old. I  
16 live in Chicora, Pennsylvania, which is in Butler County. I  
17 have lived there all my life. I own my home. I am a licensed  
18 driver. My educational background is high school. My employer  
19 is Allegheny Technologies, Inc. My job title is senior  
20 maintenance supervisor. I am married. My spouse is a  
21 homemaker. I have three children; a 16-year-old, a 15-year-old  
22 stepdaughter, and a nine-year-old. I do not have an attorney  
23 at this time.

24 THE COURT: Thank you, sir.

25 JUROR NO. 52: I am Juror No. 52. I am 66 years

1 old. I live in Regent Square in Allegheny County. I have  
2 lived there approximately 25 years. I rent my home. I am  
3 licensed to drive an automobile. I hold a Bachelor's degree in  
4 French and a Master's degree in theology. I am self-employed  
5 as a consultant for Second Chance Incorporated. My job title  
6 is SWAN consultant and SWAN refers to the Statewide Adoption  
7 Network. I am not married, I do not have children. I do not  
8 have an attorney.

9 THE COURT: Thank you, ma'am.

10 JUROR NO. 53: I am Juror No. 53. My age is 57. I  
11 live in Ruffs Dale in Westmoreland County. I have lived there  
12 for approximately 25 years. I rent my home. I am licensed to  
13 drive an automobile. My educational background is high school.  
14 My employer is currently on disability. I was weigh master  
15 dispatcher for the company before that. I am married. My  
16 spouse's employer is CVS Caremark. Her job title is -- she's  
17 pharmacist technician. I do not have children. I do not have  
18 an attorney.

19 THE COURT: Thank you very much, sir.

20 JUROR NO. 21: I'm Juror No. 21. I'm 52 years old.  
21 I live in Pittsburgh in Allegheny County. I've lived there 30  
22 years. I own my own home. I am licensed to drive. I have a  
23 BA from college. My major was art history. My employer is  
24 Innovation Works. My job title is director of communications.  
25 I am married. My husband is self-employed as an architect. I

1 have three children; a 23-year-old in college, a 20-year-old in  
2 college and a 17-year-old in high school. I do not have an  
3 attorney.

4 JUROR NO. 41: I am juror 41. I am 66 years old. I  
5 live in New Castle, Lawrence County. I have lived there 66  
6 years. I own my own home. I am licensed to drive an  
7 automobile. I have a Bachelor's degree in education. I am a  
8 retired schoolteacher from New Castle Area School District. My  
9 husband is also retired. He was Assistant Superintendent of  
10 the New Castle Area School District. We have three children; a  
11 daughter 38, she is currently CFO of the City of New Castle; I  
12 have a son 30, he's a web designer at Cyber here in Pittsburgh;  
13 I have a daughter 27, she's a CPA at Ernst Young. I do not  
14 have an attorney.

15 JUROR NO. 10: I am Juror No. 10. I am 34 years  
16 old. I live in Pittsburgh, Allegheny County. I have lived  
17 there approximately 28 years. I rent my home. I am not a  
18 licensed driver. I have a high school diploma. My employer is  
19 BNY Mellon. My job title is a data entry operator. I am not  
20 married. I do not have kids. I currently do not have an  
21 attorney.

22 THE COURT: Thank you, ma'am.

23 JUROR NO. 48: I'm Juror No. 48. I'm 60 years old.  
24 I live in Bethel Park, Allegheny County. I lived there 25  
25 years. I own my own home. I am licensed to drive. My

1 educational background is high school. My employer is American  
2 Industrial Contracting. My job title is president. I am  
3 married. My spouse is a homemaker. I have four children; 35,  
4 31, that's twins, and a 25-year-old, and they're all in  
5 construction. I don't have an attorney.

6 THE COURT: Thank you, sir.

7 JUROR NO. 54: I'm Juror No. 54. I'm 62 years old.  
8 I live in Forest Hills Borough, Allegheny County. I have lived  
9 there for 35 years. I own my home. I am a licensed driver. I  
10 have an associate's degree in technology and I'm employed by  
11 Bank of New York Mellon as a software specialist. I am  
12 married. My wife's employer is Woodland Hills School District.  
13 She's a paraprofessional. I have one daughter that is 29 years  
14 old. She's a pharmacist for the United States Public Health  
15 Service at Victorville Federal Prison. I do not have an  
16 attorney.

17 THE COURT: Thank you, sir.

18 JUROR NO. 50: I'm Juror No. 50. I am 43 years old.  
19 I live in the City of Greensburg in Westmoreland County. I  
20 have lived there approximately 18 years. I own my home. I am  
21 a licensed driver. My educational background is college. My  
22 major area of study was accounting. My employer is Elliott  
23 Company Accounting. My job title is regional manager of  
24 General Ledgers and Controls for the Americas. I am married.  
25 My spouse's employer is Dormont Manufacturing of Watts Water

1 Technology Company. My spouse's job title is product  
2 liability, health and environmental manager. I have three  
3 children ages 16, 12 and 8. They are students. I do not have  
4 an attorney.

5 THE COURT: Thank you, ma'am.

6 JUROR NO. 66: I am Juror No. 66. I am 66 years  
7 old. I live in Eldersville, Washington County. I have lived  
8 there 13 years. I own my home. I am a licensed driver. My  
9 educational background is two years of college in engineering.  
10 I'm a retiree from Allegheny Ludlum Steel and I work part time  
11 at Eden's Garden Center and Maintenance Company. I am married.  
12 My wife works as an EMT in Bridgeville as a call operator. I  
13 have five kids; 42, son that is 42, teacher down in Florida;  
14 another son that is 38, works for the State of Ohio in computer  
15 programming; a 37-year-old daughter who is a homemaker; a  
16 35-year-old son who is a vice president of some company up in  
17 Akron, and I do have a 16-year-old high school student in  
18 Burgettstown. I do have an attorney. His name is Tom Steel of  
19 Keller & Peacock. It's because of a lawsuit.

20 THE COURT: Thank you, sir.

21 JUROR NO. 15: I am juror 15. I'm 50 years old. I  
22 live in Patterson Township, Beaver County. I have lived there  
23 for approximately 26 years. I own my home. I am a licensed  
24 driver. My educational background is college. My major is IT,  
25 human resources. My employer is Eaton Corporation. My job



1 title is project manager. I am married. My spouse's employer  
2 is Blackhawk School District. My spouse's job title is  
3 cafeteria monitor. I have two children, a daughter 24, special  
4 educational teacher at New Horizon and a son 23 who works in  
5 sales at USA Pan. I do not have an attorney.

6 JUROR NO. 29: Juror No. 29. I am 26 years old. I  
7 live in Pittsburgh of Allegheny County for 25 years. I rent my  
8 home. I am licensed to drive an automobile. My educational  
9 background is high school. My employer is Texas Roadhouse. My  
10 job title is waitress. I am not married. I do not have  
11 children. I do not have an attorney.

12 THE COURT: Thank you, ma'am.

13 JUROR NO. 19: I am Juror No. 19. I am 66 years  
14 old. I live in Neville Island, Allegheny County. I have lived  
15 there approximately 22 years. I own my own home. I am  
16 licensed to drive. My education background is high school. My  
17 employer is the Willows Senior Living as a housekeeper. I am  
18 married. My spouse's employer is Venango, Incorporated. He is  
19 a car operator. I have two children, one 39, that's a manager  
20 for apartment complex, and a daughter that works at Fairfield  
21 Hotel. I do not have an attorney.

22 THE COURT: Thank you, ma'am.

23 JUROR NO. 64: I am Juror No. 64, I'm 55 years old.  
24 I live in Carnegie, Allegheny County. I have been there  
25 approximately 25 years. I rent my home. I am licensed to

1 drive. My educational background is college. My majors were  
2 speech communications and film production. I freelance in film  
3 production, so I have multiple employers throughout the course  
4 of the year. My title is either assistant director or  
5 production manager. I am not married. I do not have children.  
6 I do not have an attorney.

7 THE COURT: Thank you, ma'am.

8 JUROR NO. 40: I'm Juror No. 40. I'm 68 years old.  
9 I live in Allegheny County in Pittsburgh, North Hills area. I  
10 have lived there approximately 65 years. I own my home. I am  
11 licensed to drive an automobile. My educational background is  
12 some college and medical billing and coding. My employer is  
13 Children's Hospital of Pittsburgh of UPMC. My job title is  
14 supervisor of the Welcome Center. I am not married. I have  
15 one daughter, 44, who is a medical assistant and also works for  
16 UPMC. I do not have an attorney at this time.

17 THE COURT: Thank you, ma'am.

18 JUROR NO. 62: Good morning. I am juror 62. My age  
19 is 54. I live in Westmoreland County, North Huntingdon  
20 Township. I have lived there approximately 48 years. I own my  
21 own home. I am licensed to operate a motor vehicle. My  
22 educational background is some college, major was nursing. My  
23 employer is UPMC Jefferson Home Health. My job title is a  
24 traveling nurse. I am married. My spouse's employer is Curtis  
25 Wright. Her job title is a certified purchasing manager. I do

1 have two children, 28 and 23, a special needs assistant and  
2 full time student. I do not have an attorney at this time.

3 THE COURT: Thank you, sir.

4 JUROR NO. 58: I am Juror No. 58. I am 42 years  
5 old. I live in Hopewell Township in Beaver County. I have  
6 lived there for the last ten years and I was raised there as  
7 well. I currently own my home. I am licensed to drive an  
8 automobile. I attended college. I have a bachelor's in  
9 psychology and a master's in child development. My employer  
10 the The Alliance for Infants and Toddlers. I am a service  
11 coordinator. I am not married. I do not have children. I do  
12 not have a lawyer.

13 THE COURT: Thank you, ma'am.

14 JUROR NO. 25: I am Juror No. 25. I am 65 years  
15 old. I live in Harmony in Butler County. I own my own home.  
16 I am licensed to drive an automobile. My educational  
17 background is some college. My study was liberal arts. My  
18 employer is Market Space Communications and I am an  
19 administrative assistant. I am married. My husband is retired  
20 and working part time for Enterprise as a driver. I have two  
21 children, one daughter is 34 and she's an administrative  
22 assistant. My other daughter is 36 and she's an investigative  
23 insurance agent. I have no attorney.

24 THE COURT: Thank you, ma'am.

25 Juror 63.

1 JUROR NO. 63: I'm Juror No. 63. I am 52 years old.  
2 I live in Mt. Lebanon, Allegheny County. I have lived in  
3 Mt. Lebanon approximately 26 years. My wife and I own our  
4 home. I am licensed to drive. I hold a doctorate in computer  
5 science. My employer is Google. I am a software engineer. I  
6 am married. My wife is the CEO of Carnegie Speech, LLC. I  
7 have two children, ages 11 and 13, unemployed. I do not have  
8 an attorney.

9 JUROR NO. 43: I am Juror No. 43. I am 56 years  
10 old. I live in Gibsonia, Allegheny County. I have lived there  
11 approximately 20 years. I own my home. I am a licensed  
12 driver. My educational background is high school. My employer  
13 is McCameson, Incorporated. My job title is steamfitter  
14 foreman. I am married. My spouse's employer is Passavant  
15 Memorial Homes. Her job title is pharmacist. I have two  
16 children, ages 23 and 22. They're both in college. I do not  
17 have an attorney.

18 THE COURT: Thank you, sir.

19 JUROR NO. 227: I am Juror 227, 48 years old. I  
20 live in Waynesburg, Greene County. I have lived there for four  
21 years. Own a home. Am licensed to drive. Education is some  
22 college. My employer is PA Department of Corrections at SCI  
23 Green. I'm a sergeant. Wife is teacher's aide at Carmichael  
24 School District. We have two boys, 7 and 18, both students. I  
25 do not have an attorney.

1 THE COURT: Thank you, sir.

2 JUROR NO. 51: I am Juror 51. I am 33 years old. I  
3 live in North Huntingdon, Westmoreland County. I have lived  
4 there for about six years. I do own my home. I am licensed to  
5 drive. My educational background is college. I have a HR  
6 degree, human resource degree. My employer is Bobby Rahal  
7 Automotive. I am the HR manager. I am married. My spouse's  
8 employer is Asset Works. My spouse's job title is VP of  
9 assets. I do have two children. I have a two-year-old and a  
10 5-week-old. I do not have an attorney.

11 THE COURT: Thank you, ma'am.

12 JUROR NO. 67: I am Juror No. 67. I am 38 years  
13 old. I live in Canonsburg, Washington County. I have lived  
14 there for approximately six years. I own my own home. I am  
15 licensed to drive a vehicle. My educational background is  
16 college. I have an associate's degree in electronics. My  
17 employer is Universal Hospital Services. My job title is  
18 biomedical equipment technician. I am married. My spouse's  
19 employer is Range Resources. My spouse's job title is  
20 purchasing assistant. I have one child that is two years old  
21 and I do not have an attorney.

22 THE COURT: Thank you, sir.

23 JUROR NO. 42: I am Juror No. 42. I am 41 years  
24 old. I live in the City of Clairton in Allegheny County. I  
25 have lived there for three years. I own my own home. I am

1 licensed to drive an automobile. My educational background is  
2 some college. I majored in communication education. My  
3 employer, I am self-employed. My job title is novelist. I am  
4 currently separated. My spouse's employer is File Inventory  
5 Control System. Her title is manager. I have three children,  
6 ages 19, 17 and 15, and they are all in school. I do not have  
7 an attorney.

8 THE COURT: Thank you, sir.

9 JUROR NO. 11: I am Juror No. 11. I am 33 years  
10 old. I live in Green Tree, Allegheny County. I have lived  
11 there for approximately six years. I own my own home. I am  
12 licensed to drive an automobile. My educational background is  
13 law school. My employer is the Law Offices of Robert L. Lampl.  
14 My job title is associate attorney. I am married. My spouse's  
15 employer is Friday and Cox, LLC. My spouse's job title is  
16 associate attorney. I have two children ages two and four. I  
17 do not have an attorney.

18 JUROR NO. 14: I am juror 14. I am 62 years old. I  
19 live in McKees Rocks, Allegheny County. I have lived there for  
20 five years. I rent my home. I am licensed to drive an  
21 automobile. My education is high school. I am disabled, I am  
22 getting disability. I worked at BP as a cashier. I am not  
23 married. I have three children. My son is 42, he works in  
24 logistics at the VA Hospital in Oakland; I have a 40-year-old  
25 daughter, she has a housekeeping business; and I have a

1 27-year-old daughter who is a homemaker. I don't have an  
2 attorney.

3 THE COURT: Thank you, ma'am.

4 JUROR NO. 46: I am Juror No. 46. I am 54 years  
5 old. I live in Pittsburgh, Allegheny County. I have lived  
6 there approximately three years, but I did live in Allegheny  
7 County for 37 years total. I do own my own home. I am  
8 licensed to drive an automobile. My educational background is  
9 a Master's of Science in nursing. My employer is EDMC. My job  
10 title is RN adjunct faculty. I am married. My spouse's  
11 employer is ALCOA Defense. My spouse's job title is in  
12 security. We have two children, 28 and 25. My 28-year-old  
13 works also for EDMC and my 25-year-old works for Home City Ice.  
14 I do not have an attorney.

15 THE COURT: Thank you, ma'am.

16 JUROR NO. 4: I am Juror No. 4. I am 47 years old.  
17 I live in North Washington Township, Westmoreland County. I  
18 have lived there approximately 24 years. I own my home. I am  
19 licensed to drive an automobile. My educational background is  
20 college. I have associate's degree in paralegal studies and a  
21 degree in legal secretarial studies. My employer is Carmeuse  
22 Lime and Stone. My job title is accounts receivable  
23 administrator. I am married. My spouse's employer is Duress  
24 Equipment. My spouse's job title is collection manager. I  
25 don't have any children. I do not have an attorney.

1 THE COURT: Could you restate the name of your  
2 employer.

3 JUROR NO. 4: Carmeuse Lime and Stone.

4 JUROR NO. 55: I am Juror No. 55. I am 35 years  
5 old. I live in Carmichael, which is in Greene County. I have  
6 lived there approximately five years. I rent my home. I am  
7 licensed to drive an automobile. My educational background is  
8 a BS in business. My employer is Target. My job title is  
9 executive team lead. I am not married. I have one child. He  
10 is 15 and in high school. I do not have an attorney.

11 THE COURT: Thank you, sir.

12 JUROR NO. 60: I am Juror No. 60. I am 63 years  
13 old. I live in Pittsburgh, Allegheny County. I have lived  
14 there approximately 42 years. I rent. I am licensed to drive  
15 an automobile. My educational background is Bachelor's degree  
16 in education. My employer was Gateway School District. My job  
17 title was high school teacher. I'm retired. I am not married.  
18 I have no children. And I do not have an attorney.

19 THE COURT: Thank you, ma'am.

20 JUROR NO. 75: I am Juror No. 75. I am age 35. I  
21 live in West Deer township, Allegheny County. We have lived  
22 there for approximately one year. I own my home. I have a  
23 license to drive. My education is in plumbing and mechanical.  
24 My employer is Roto-Rooter Services. Job title is excavation  
25 plumber. My spouse is a home schooler to our three children,



1 9, 5 and 4. And I do not have an attorney.

2 THE COURT: Thank you, sir.

3 JUROR NO. 2: I am Juror No. 2. My age is 33 years  
4 old. I live in Brentwood Borough, Allegheny County. I have  
5 lived there approximately two years. I own my home. I am a  
6 licensed driver. My educational background is trade school  
7 cosmetology. My employer is Lins Asian Fusion. My job title  
8 is a server. I am married. My spouse's employer is  
9 boilermaker Local 154. My spouse's job title is journeyman  
10 welder. I have a child. He is five. I do not have an  
11 attorney at this time.

12 THE COURT: Thank you, ma'am.

13 JUROR NO. 72: I am Juror No. 72. I am 25 years  
14 old. I live in Claridge, Westmoreland County. I have lived  
15 there for approximately 23 years. I do not own or rent my  
16 home. I am licensed to drive an automobile. My educational  
17 background is high school. My employer is LRG Corporation. My  
18 job title is journeyman machinist. I am not married. I do not  
19 have any children. And I do not have an attorney.

20 THE COURT: Thank you, sir.

21 JUROR NO. 30: I'm Juror No. 30. I am age 52 years  
22 old. I live until Braddock Hills in Allegheny County. I have  
23 lived there approximately six years. I rent my home. I am a  
24 licensed to drive an automobile. My educational background is  
25 high school. My employer is Ducommon LaBarge Technologies. My

1 job title is print circuit board assembly. I am not married.  
2 I have three children; 34, 30, and 28. I do not have an  
3 attorney.

4 THE COURT: Could you tell us what each of your  
5 children do.

6 JUROR NO. 30: Yes, my 34-year-old daughter is a  
7 high school schoolteacher. My 30-year-old daughter is a  
8 licensed therapist, and my son is studying for his CDL license  
9 to drive truck.

10 THE COURT: Your middle child, what type of  
11 therapist?

12 JUROR NO. 30: She's a counselor. She has her  
13 master's in counseling, so she just became a licensed  
14 therapist.

15 THE COURT: Thank you, ma'am.

16 JUROR NO. 31: Good morning. I'm Juror No. 31. I  
17 am 39 years old. I live in the Borough of Dormont, Allegheny  
18 County. I have lived there approximately six years. I own my  
19 home. I am licensed to drive an automobile. My educational  
20 background is college. I have a Bachelor's degree in public  
21 speaking and marketing. My employer is Special Olympics,  
22 Pennsylvania. I'm in fund-raising and special event  
23 management. I am married. My spouse's employer is the  
24 Allegheny County Airport Authority and he is a firefighter. We  
25 have two children, 11 and 14. They do not work. I do not have

1 an attorney.

2 THE COURT: Thank you, ma'am.

3 JUROR NO. 26: I'm Juror No. 26. I am 64 years old.  
4 I live in Edgewood, Allegheny County. I have lived there  
5 approximately 35 years. I own my home. I am licensed to drive  
6 an automobile. My educational background is in education,  
7 special education and psychology. My doctoral degree is in  
8 counseling. My employer is Community Day School. My job title  
9 is director of learning services. I am married. My spouse is  
10 a self-employed psychologist. We have a 24-year-old son who is  
11 a videographer. I don't have an attorney at this time.

12 THE COURT: Thank you, ma'am.

13 JUROR NO. 33: I am Juror No. 33. I am 31 years  
14 old. I currently live in Greensburg, Westmoreland County. I  
15 rent my home. I am a licensed driver. My education is high  
16 school. My employer is Life Steps, Incorporated, and my job  
17 title is a supervisor. I am currently separated, going through  
18 a divorce. I do not have any kids. And I do have an attorney  
19 because of my divorce.

20 THE COURT: Thank you very much, ma'am.

21 Thank you, Mr. Zimmerman.

22 Ladies and gentlemen, and all trial participants,  
23 let me begin our next phase by first apologizing for clearing  
24 my throat. I was fighting a little bit of a cold over the  
25 weekend. And I'll do my best not to be distracting to you or

1 the proceedings.

2           What is going to happen now is I'm going to pose a  
3 number of questions to you as a group. If your answer to the  
4 question is no, simply remain seated and say nothing. So, when  
5 you hear my question, if your answer would be no, you need not  
6 do anything except remain seated and say nothing.

7           If on the other hand your answer to any of my  
8 questions is a yes, please stand and when I acknowledge you,  
9 simply state your juror number only. At this time, we're not  
10 asking you to provide and you should not provide any further  
11 information about your yes answer.

12           So, if the answer to the question is a no, remain  
13 seated, say nothing.

14           If the answer is yes, please stand and when I  
15 acknowledge you, please state your juror number only. Once  
16 you've done that, you can be seated.

17

18           Question No. 1. Recalling the summary of the  
19 indictment which I read to you a few moments ago, do any of you  
20 know anything about this case or have you read, seen, or heard  
21 anything about it, or has anyone spoken with you about it?

22           There are no yes answers to No. 1.

23           No. 2. I will now ask the defendant,  
24 Mr. Atiba Warren, to stand.

25           Mr. Warren.

1 Do any of you know or know anything about  
2 Mr. Atiba Warren?

3 Let the record reflect there are no yes answers to  
4 No. 2.

5 You may be seated, Mr. Warren.

6 No. 3. I'll now ask Mr. Warren's counsel, Mr. Mark  
7 Sindler, to stand.

8 Do any of you know Mr. Sindler?

9 Has he ever represented you or any members of your  
10 immediate family or been involved with you or them in any way?

11 Ladies and gentlemen, I will tell you for purposes  
12 of all of my questions today, immediate family means husband,  
13 or wife, children, brothers, sisters, mother, father,  
14 grandparents, or domestic partner.

15 Thank you, Mr. Sindler.

16 There are no yes answers to No. 3.

17 No. 4. I will now ask the prosecutors, Assistant  
18 U.S. Attorneys Katherine King and Jonathan Ortiz to stand.

19 Do any of you know Ms. King or Mr. Ortiz

20 There are no yes answers to No. 4.

21 You may be seated Ms. King and Mr. Ortiz.

22 Also seated at counsel table is law enforcement  
23 officer Steven Scullli.

24 Please stand, Mr. Scullli.

25 MR. ORTIZ: It's Christian Scullli.

1 THE COURT: C-H-R-I-S-T-I-A-N?

2 MR. ORTIZ: Yes, Your Honor.

3 THE COURT: Officer Christian Scullli, does anyone  
4 know Christian Scullli?

5 There are no yes answers as to Mr. Scullli,  
6 Mr. Ortiz or Ms. King.

7 No. 5. Do any of you know anybody else on the jury  
8 panel, me, the Judge, or any member of the Court's staff who  
9 were introduced earlier today?

10 JUROR NO. 11: No. 11.

11 THE COURT: Juror No. 11 answered yes to question 5.

12 JUROR NO. 57: 57.

13 Anybody else know anyone else on the jury panel, me,  
14 the Judge or any member of the Court's staff?

15 JUROR NO. 50: Juror 50.

16 THE COURT: Any other yes answers to question 5?

17 No. 6. This case is being prosecuted by the federal  
18 government following an investigation by the City of Pittsburgh  
19 Police and it involves also the Federal Bureau of Alcohol,  
20 Tobacco, Firearms and Exclusives and the Allegheny County  
21 Medical Examiner's Office.

22 Do you have such strong personal feelings about any  
23 of these agencies or any other government agency that would  
24 affect your ability to render a fair and impartial verdict in  
25 this case?

1           There are no yes answers to No. 6.

2           No. 7. Similarly, potential witnesses in this case  
3 are employed by the Bureau of Alcohol, Tobacco, Firearms and  
4 Explosives, also known as the ATF and E, the Allegheny County  
5 Medical Examiner and the Pittsburgh police.

6           Have you or any member of your immediate family ever  
7 had any difficult or unpleasant experiences with any of those  
8 agencies, or any other federal, state or local agency or  
9 office, or do you have strong personal feelings for or against  
10 those agencies for whatever reason?

11           There are no yes answers to No. 7.

12           No. 8. Do you believe that law enforcement  
13 testimony is more or less likely to be believable or reliable  
14 than testimony by another witness?

15           There are no yes answers to No. 8.

16           No. 9. The following witnesses may testify in this  
17 trial:

18           Steven Sywyj, spelled S-Y-W-Y-I.

19           Lance Hoyson, spelled H-O-Y-S-O-N.

20           William Best, spelled B-E-S-T.

21           Kevin Kaufman, K-A-U-F-M-A-N.

22           Estelle Hayes, H-A-Y-E-S.

23           Travis Johnson, J-O-H-N-S-O-N.

24           Duwane Hayes, H-A-Y-E-S.

25           Carol Janssen, J-A-N-S-S-E-N.

1 Steve Wright, W-R-I-G-H-T.

2 Do you know any of those witnesses?

3 There are no yes answers to No. 9.

4 No. 10. This trial is estimated to take several  
5 days to present the witness testimony, evidence, and arguments  
6 of counsel. However, this is realistically just our best  
7 estimate of trial time and the trial may turn out to be  
8 somewhat shorter or somewhat longer. Also our jury  
9 deliberation room is up one flight of stairs from this  
10 courtroom, which must be traversed several times each day.

11 Knowing what I've told you, is there any legitimate,  
12 justifiable hardship reason, personal, professional, business,  
13 medical condition or impairment or otherwise why you could not  
14 serve as a juror for the duration of this trial?

15 Before you answer, I must advise you that a claimed  
16 hardship must be real and not imagined, perceived or hoped for  
17 and that such claims of hardship will be carefully considered  
18 by the Court.

19 Any yes answers to that question No. 10?

20 JUROR NO. 13: 13.

21 JUROR NO. 29: 29.

22 JUROR NO. 75: 75.

23 JUROR NO. 26: 26.

24 JUROR NO. 14: 14.

25 JUROR NO. 51: 51.



1 THE COURT: Thank you.

2 No. 11. Is there any matter pending in your life  
3 about which you're concerned that would prevent you from  
4 devoting your full, undivided attention to this trial?

5 JUROR NO. 10: 10.

6 JUROR NO. 13: 13.

7 JUROR NO. 50: 50.

8 JUROR NO. 42: 42.

9 THE COURT: Thank you.

10 No. 12. Have you ever served as a juror in a  
11 criminal or civil case, or as a member of a grand jury in any  
12 federal, state or county court?

13 JUROR NO. 54: 54.

14 JUROR NO. 47: 47.

15 JUROR NO. 66: 66.

16 JUROR NO. 41: 41.

17 JUROR NO. 64: 64.

18 JUROR NO. 21: 21.

19 JUROR NO. 15: 15.

20 THE COURT: Question 13.

21 Is there anything about jury service, whether it  
22 involves lawyers, judges, the accused, the evidence, your jury  
23 deliberations or your views of jury service more generally that  
24 makes you feel you would have trouble being fair and impartial  
25 or that you believe would make it difficult for you to serve

1 fairly as a juror in this case?

2           There are no yes answers to No. 13.

3           No. 14. Have you formed any opinions about either  
4 the prosecutors or defense lawyers, those in this case or  
5 otherwise, the federal government, the criminal justice system,  
6 the court system, or the prosecution or defense of criminal  
7 cases which would affect you in deciding this case?

8           There are no yes answers to No. 14.

9           No. 15. Have you or any member of your immediate  
10 family ever been employed or sought to be employed by the  
11 federal government, other than military service, or by any  
12 state, local, county or federal law enforcement agency or court  
13 in a paid or volunteer capacity?

14           JUROR NO. 31: 31.

15           JUROR NO. 75: 75.

16           JUROR NO. 66: 66.

17           JUROR NO. 16: 16.

18           JUROR NO. 13: 13.

19           JUROR NO. 56: 56.

20           JUROR NO. 54: 54.

21           JUROR NO. 50: 50.

22           JUROR NO. 27: 27.

23           JUROR NO. 29: 29.

24           JUROR NO. 43: 43.

25           JUROR NO. 58: 58.

1 JUROR NO. 42: 42.

2 JUROR NO. 14: 14.

3 THE COURT: No. 16. Have you or any member of your  
4 immediate family ever been a witness or defendant in a criminal  
5 case other than a minor traffic violation?

6 JUROR NO. 227: 227.

7 JUROR NO. 67: 67.

8 JUROR NO. 13: 13.

9 No. 17. Have you or any member of your immediate  
10 family ever been arrested, charged with or convicted of a  
11 criminal offense?

12 JUROR NO. 48: 48.

13 JUROR NO. 2: 2.

14 No. 18. Have you or a member of your immediate  
15 family ever been a victim --

16 MR. SINDLER: A lady stood up.

17 JUROR NO. 4: No. 4.

18 THE COURT: And you were answering Question 17,  
19 which is have you or any member of your immediate family ever  
20 been arrested, charged with or convicted of a criminal offense?

21 Your number again?

22 JUROR NO. 4: 4.

23 JUROR NO. 13: 13.

24 JUROR NO. 19: 19.

25 JUROR NO. 43: 43.

1 JUROR NO. 14: 14.

2 THE COURT: No. 18. Have you or a member of your  
3 immediate family ever been a victim of a crime?

4 JUROR NO. 2: 2.

5 JUROR NO. 4: 4.

6 JUROR NO. 52: 52.

7 JUROR NO. 54: 54.

8 JUROR NO. 10: 10.

9 JUROR NO. 16: 16.

10 JUROR NO. 40: 40.

11 JUROR NO. 42: 42.

12 JUROR NO. 57: 57.

13 JUROR NO. 53: 53.

14 JUROR NO. 21: 21.

15 JUROR NO. 29: 29.

16 JUROR NO. 63: 63.

17 THE COURT: No. 19. Do any of you now or have you  
18 within the past five years belonged to or participated in any  
19 crime prevention groups such as neighborhood watch  
20 organizations or any other crime prevention groups?

21 There are no yes answers to No. 19.

22 No. 20. Mr. Warren is a black male. Do you have  
23 any opinions or beliefs regarding black males that may affect  
24 your ability to render a fair and impartial verdict in this  
25 case?

1                   There are no yes answers to No. 20.

2                   No. 21. Have you or a member of your immediate  
3 family ever been employed as a firefighter or affiliated with  
4 any fire department?

5                   JUROR NO. 31: 31.

6                   JUROR NO. 72: 72.

7                   JUROR NO. 34: 34.

8                   JUROR NO. 7: 7.

9                   JUROR NO. 13: 13.

10                  JUROR NO. 56: 56.

11                  JUROR NO. 38: 38.

12                  JUROR NO. 53: 53.

13                  JUROR NO. 10: 10.

14                  JUROR NO. 54: 54.

15                  JUROR NO. 29: 29.

16                  JUROR NO. 42: 42.

17                  THE COURT: Question No. 22. Have you ever studied  
18 law?

19                  JUROR NO. 28: 28.

20                  JUROR NO. 11: 11.

21                  JUROR NO. 4: 4.

22                  THE COURT: No. 23. Do you believe that black males  
23 or black persons are more likely than others to commit a crime?

24                  There are no yes answers to No. 23.

25                  No. 24. The jury in this case will be instructed

1 that a defendant in a criminal case is presumed to be innocent  
2 and that presumption of innocence remains with him throughout  
3 the entire trial.

4 Do you have any doubts or reservations about your  
5 ability to follow this instruction?

6 There are no yes answers to No. 24.

7 No. 25. Do you believe that Mr. Warren is obligated  
8 to prove that he is innocent of these charges?

9 There are no yes answers to 25.

10 26. Do you think that because Mr. Warren has been  
11 charged with a crime, that he is probably guilty of that crime  
12 or some other crime?

13 There are no yes answers to 26.

14 27. I will also instruct the jury that the  
15 defendant in a criminal case does not have to testify or  
16 present any evidence on his own behalf and that his decision to  
17 do so is not to be considered evidence against him of guilt.

18 Do you have any doubt or reservation about being  
19 able to follow this instruction?

20 There are no yes answers to 27.

21 28. Do you believe that Mr. Warren is required to  
22 testify in this case or provide his version of what occurred?

23 JUROR NO. 43: 43.

24 JUROR NO. 72: 72.

25 THE COURT: No. 29. Do you believe that if

1 Mr. Warren does not testify in this case, that the absence of  
2 that testimony is evidence of his guilt?

3           There are no yes answers to 29.

4           No. 30. If Mr. Warren were to testify, would it be  
5 difficult for you to fairly consider his testimony for any  
6 reason?

7           There are no yes answers to No. 30.

8           No. 31. I will instruct the jury that the  
9 government has the burden of proving the defendant's guilt  
10 beyond a reasonable doubt. Do you have any doubt or  
11 reservation about your ability to follow this instruction or  
12 any other instruction that I would give you?

13           There are no yes answers to No. 31.

14           No. 32. If you were representing the government or  
15 the defendant in this case, is there any reason why you would  
16 not be content to have this case decided by you or someone in  
17 your frame of mind?

18           JUROR NO. 2: No. 2.

19           JUROR NO. 16: 16.

20           JUROR NO. 29: 29.

21           THE COURT: Question No. 33. To admit to having  
22 some sympathy for or personal feelings for or against either  
23 the defendant or the government in this case is nothing to be  
24 ashamed of and does not reflect badly upon you as a person.  
25 However, both the government and the defendant are entitled to

1 have this case heard by a fair and impartial jury that will  
2 decide the case solely according to the evidence admitted in  
3 this court and according to the Court's instructions on the  
4 law. The law provides that the jury may not be governed by  
5 sympathy, prejudice or public opinion.

6           With this in mind, do you have any reason why you  
7 would not be able to give either the government or the  
8 defendant a fair trial based solely upon the evidence admitted  
9 at trial and the instructions given by the Court, even if you  
10 disagreed with those instructions?

11           There are no yes answers to No. 33.

12           No. 34. Is there anything about the nature of this  
13 case or the people or issues involved in it which you think  
14 would make it difficult for you to try the issues fairly and  
15 impartially without any prejudice or bias?

16           There are no yes answers to 34.

17           35. Do you now have any opinion as to Mr. Warren's  
18 guilt or innocence?

19           There are no yes answers to 35.

20           36. During deliberations, if you have formed an  
21 opinion, would it be difficult for you to keep an open mind and  
22 to consider the opinion of others?

23           There are no yes answers to 36.

24           No. 37. Do you have any strong feelings for or  
25 against or relating to the private ownership of firearms or



1 laws regulating their possession or firearms themselves, such  
2 that you would be unable to render a fair and impartial verdict  
3 in this case based solely on the evidence presented and the  
4 legal instructions of the Court?

5 JUROR NO. 26: No. 26.

6 JUROR NO. 52: 52.

7 JUROR NO. 50: 50.

8 THE COURT: Question 38. Do you or any member of  
9 your immediate family own or possess any type of firearm or  
10 ammunition?

11 JUROR NO. 4: 4.

12 JUROR NO. 55: 55.

13 JUROR NO. 75: 75.

14 JUROR NO. 2: 2.

15 JUROR NO. 72: 72.

16 JUROR NO. 30: 30.

17 JUROR NO. 31: 31.

18 JUROR NO. 47: 47.

19 JUROR NO. 34: 34.

20 JUROR NO. 28: 28.

21 JUROR NO. 7: 7.

22 JUROR NO. 38: 38.

23 JUROR NO. 57: 57.

24 JUROR NO. 27: 27.

25 JUROR NO. 20: 20.

1 JUROR NO. 56: 56.

2 JUROR NO. 13: 13.

3 JUROR NO. 52: 52.

4 JUROR NO. 66: 66.

5 JUROR NO. 50: 50.

6 JUROR NO. 54: 54.

7 JUROR NO. 10: 10.

8 JUROR NO. 53: 53.

9 JUROR NO. 29: 29.

10 JUROR NO. 19: 19.

11 JUROR NO. 64: 64.

12 JUROR NO. 40: 40.

13 JUROR NO. 62: 62.

14 JUROR NO. 25: 25.

15 JUROR NO. 14: 14.

16 JUROR NO. 11: 11.

17 JUROR NO. 42: 42.

18 JUROR NO. 67: 67.

19 JUROR NO. 51: 51.

20 JUROR NO. 227: 227.

21 JUROR NO. 43: 43.

22 THE COURT: Question 39. Having now heard the  
23 questions of the Court, do you know of any reason why you could  
24 not sit on this jury and render a fair and impartial verdict  
25 based solely on the evidence presented in this case and the law

1 as I will instruct you?

2           There are no yes answers to No. 39.

3           Could I see counsel and the trial participants at  
4 sidebar for a moment.

5           (Whereupon, there was a discussion at sidebar.)

6           THE COURT: We're at sidebar so I can go over a few  
7 procedural issues with counsel.

8           Present are Mr. Warren and Mr. Sindler, Ms. King and  
9 Mr. Ortiz.

10           Mr. Sindler, based on the Court's conduct of voir  
11 dire, are there any additional voir dire questions that you  
12 believe should be propounded to the group as a whole?

13           MR. SINDLER: There are no more. My concern,  
14 though, given how Question 17 was answered.

15           THE COURT: Just to reflect, Question No. 17: Have  
16 you or any member of your immediate family ever been arrested,  
17 charged with or convicted of a criminal offense.

18           Mr. Sindler.

19           MR. SINDLER: The manner in which those answers were  
20 answered affirmatively by some of the people, it seemed like  
21 there were more people who once one or two had risen that  
22 answered than would have had the first one or two not. I bring  
23 that up because a question or two before that concerning -- can  
24 I go to my list.

25           THE COURT: You may, Mr. Sindler.

1           Mr. Sindler has returned.

2           MR. SINDLER: Question 8 concerned the testimony of  
3 law enforcement and whether one would be inclined, more  
4 inclined simply because of employment in law enforcement to  
5 believe that testimony.

6           I have just found in the course of my trial career  
7 that people tend to -- there are some people who affirmatively  
8 answer that, and I think that sometimes unless -- using  
9 Question 17 as an example, unless there's one or two people who  
10 in a touchy area such as that, and I wonder if there's a way to  
11 just cover that one question again because I find it hard to  
12 believe that amongst the 50 or so people in the room nobody has  
13 that inclination or belief about a person employed by law  
14 enforcement and whether or not they would believe that  
15 testimony more so than say a civilian. That's all.

16           THE COURT: Anything else about voir dire or any  
17 additional follow-up that you'd request, sir?

18           MR. SINDLER: No.

19           THE COURT: Of the group of a whole.

20           The second question is going to be, it would seem to  
21 the Court that it would be logical before we began the  
22 individual follow-up to give everyone their lunch break rather  
23 than get it started with one or two people at five minutes to  
24 twelve.

25           MR. SINDLER: I would agree.

1 THE COURT: Ms. King and Mr. Ortiz, is there  
2 anything about the voir dire as conducted or in terms of  
3 additional general voir dire that the United States would like  
4 to bring up or would like the Court to address?

5 MS. KING: No, Your Honor.

6 MR. ORTIZ: No, Your Honor.

7 THE COURT: Do you concur that this might be a good  
8 time to let them take their lunch break?

9 MS. KING: Yes.

10 THE COURT: It's my intention that we'll do two  
11 things when we do that. I am going to give the group  
12 essentially the same admonition I would give them as if they  
13 were sworn jurors about not talking about this case or  
14 discussing this case with themselves or anybody else, or any  
15 matter related to it. And once we will get all the jurors out  
16 of the courtroom before we move anyone around in the courtroom,  
17 we'll have them out and the doors closed before we do that,  
18 I'll invite them if they want to leave their things here or  
19 take it with them, that's entirely up to them.

20 It would be my intention, Mr. Sindler, what I will  
21 do is I will re-ask Question 8, but I will not ask it alone. I  
22 will select several other questions so it's one of three that I  
23 re-ask to confirm the Court's notes.

24 Is that agreeable with you?

25 MR. SINDLER: That's fine.

1 THE COURT: Any objection, Ms. King or Mr. Ortiz?

2 MS. KING: No, Your Honor.

3 THE COURT: Anything about the process we're going  
4 to take now you would like to weigh in on?

5 MS. KING: No, Your Honor.

6 THE COURT: My thought would be one hour and fifteen  
7 minutes. We have a considerable number of people who appear to  
8 not come into Downtown Pittsburgh. If I gave them an hour,  
9 they might be a little nervous about being back here, so we're  
10 going to give them an hour and fifteen minutes so they're  
11 comfortable. That will give counsel time to check your notes  
12 and be ready to go this afternoon.

13 Ms. King and Mr. Ortiz, anything we should take care  
14 of at sidebar?

15 MS. KING: No.

16 THE COURT: Mr. Sindler?

17 MR. SINDLER: No.

18 (Whereupon, the discussion at sidebar ended.)

19 THE COURT: We're back on the record in open court.

20 Mr. Warren is present as are his lawyer,  
21 Mr. Sindler, Ms. King and Mr. Ortiz for the United States.

22 Ladies and gentlemen, there are a couple questions  
23 I'm going to ask again just to make sure our collective notes  
24 are correct.

25 What we're then going to do is we're going to take

1 our midday break so you have time to go and get something to  
2 eat and then we'll tell you a time that we're going to be back  
3 here, maybe you can beat the rush a little bit.

4 I will also tell you in our courtroom, we do permit  
5 soft drinks, so long as they are in a container with a  
6 mechanical lid, something that screws on like this, no sort of  
7 flimsy takeout cups. So if you happen to have your commuter  
8 cup or a soft drink in a sealed bottle, you're welcome to bring  
9 that back so you can have something to drink.

10 Bear with me one second, ladies and gentlemen. I'm  
11 going to re-ask Question 13.

12 Is there anything about jury service, whether it  
13 involves lawyers, judges, the accused, the evidence, jury  
14 deliberations or your views of jury service more generally that  
15 makes you feel that you would have trouble being fair or  
16 impartial or you believe would make it difficult for you to  
17 serve fairly as a juror in this case?

18 That's Question 13 once again.

19 There are no yes answers to Question No. 13.

20 One moment, ladies and gentlemen.

21 Question No. 5. Do you know anybody else on the  
22 jury panel, me, the judge, or any member of the court staff?

23 If you stood before, we need you to stand again.

24 JUROR NO. 57: 57.

25 JUROR NO. 27: 27, sort of.

1 JUROR NO. 50: 50.

2 JUROR NO. 11: 11.

3 THE COURT: That was Question No. 5.

4 Lastly, Question No. 8.

5 Do you believe that law enforcement testimony is  
6 more or less likely to be believable or reliable than testimony  
7 by another witness? That's Question No. 8.

8 JUROR NO. 72: 72.

9 JUROR NO. 75: 75.

10 THE COURT: Thank you very much.

11 Ladies and gentlemen, it's now one minute after  
12 noon. We are going to take our lunch break at this time.  
13 We're going to resume in court at one-fifteen. So I would ask  
14 you to be back here -- we're going to lock the doors while  
15 you're out -- we're going to ask you to be back here by about  
16 ten minutes after one.

17 Here comes the special part. When you come back,  
18 sit in exactly the same place you're seated now. So look to  
19 your left, look to your right, look in front of you and behind  
20 you, whatever you need to get your bearings, so when you come  
21 back, you need to sit in the same place.

22 Before we get started this afternoon Mr. Babik,  
23 Mr. Greer and Mr. Zimmerman will assist you.

24 As I mentioned, we're going to lock the doors.  
25 You're welcome to leave things here, but you may find it more



1 comfortable to take them with you or to the jury room.

2           You're welcome to go wherever you want to go, just  
3 so you would be back here and seated by ten minutes after one.

4           I can advise you we do have a small cafeteria down  
5 on the first floor at the other end of the hallway, and there  
6 are other places around town.

7           Ladies and gentlemen, I am going to give you the  
8 following instruction.

9           While you are away from the courtroom, you should  
10 not discuss this case, anything about it, anything about the  
11 instructions I have given you, anything about your answers or  
12 the answers of anyone else to any of the questions that have  
13 been asked here today. You should not do anything that would  
14 be any type of research into anything having to do with this  
15 case or the issues involved in it. That means no Googling, no  
16 TV, radio, even Encyclopedia Britannica, looking things up on  
17 the Internet, Facebook, Twitter, no tools of technology. You  
18 should take no steps to do any research about the case, any of  
19 the participants, or any of the issues that are involved in it.

20           You should not discuss the case or any of the  
21 participants or any of the issues that appear to be involved in  
22 it with anyone else, including amongst yourselves.

23           I will advise you that the lawyers and all of the  
24 other trial participants have been told they're not to greet  
25 you, not to converse with you, so it's not that they're not

1 being sociable, it's that they have been instructed to not have  
2 any contact or discussion with you.

3           Should during your break anybody talk with you or  
4 attempt to talk with you about this case, any of the issues  
5 that might be involved in it or any of the participants, please  
6 let my deputy, Mr. Babik, or Mr. Greer or Mr. Zimmerman know  
7 that as soon as you return.

8           Mr. Babik, is there anything else we should say to  
9 the jury panel at this time?

10           MR. BABIK: Nothing else, Judge.

11           THE COURT: Ladies and gentlemen, we'll have all the  
12 trial participants, including me, we'll keep our seats while  
13 you collect your things up, take one last look at who is seated  
14 next to you, in front of you and behind you. We'll send you on  
15 your way. If you could be back here at ten after one, that  
16 would be terrific.

17           Please note that the jury panel is excused for the  
18 midday break.

19           (Jury panel is dismissed from the courtroom.)

20           THE COURT: All of the prospective jurors have left  
21 the courtroom.

22           Ms. King, Mr. Ortiz, any other matters we should  
23 take up at this time?

24           MS. KING: No, Your Honor. Thank you.

25           THE COURT: Mr. Sindler, same question?

1 MR. SINDLER: No.

2 THE COURT: Close the main doors to the courtroom,  
3 sir.

4 Mr. Babik, if you would recess court.

5 If counsel could be back at ten after one, we'll  
6 have the paperwork ready to go and then we'll get started with  
7 the follow-up questions on yes answers.

8 Marshals can assist Mr. Warren.

9 And Mr. Sindler, any reason we can't recess?

10 MR. SINDLER: No, Your Honor.

11 THE COURT: Ms. King and Mr. Ortiz?

12 MS. KING: No, Your Honor.

13 (Whereupon, there was a brief recess in the proceedings.)

14 (Proceedings held in-chambers.)

15 THE COURT: We're in chambers.

16 Present are counsel, Ms. King and Mr. Ortiz, for the  
17 United States.

18 Mr. Sindler is here for Mr. Warren.

19 Mr. Warren is not in here yet. He will be shortly.

20 I have two representatives of the marshal service.

21 Mr. Babik and Mr. Greer.

22 It's my intention to send Mr. Babik out.

23 Mr. Babik, have all of the prospective jurors  
24 reported back to the courtroom and are they properly seated?

25 MR. BABIK: They are.

1 THE COURT: You have personally observed it?

2 MR. BABIK: I personally observed it.

3 THE COURT: My thought would be to have Mr. Warren  
4 come back here. Then we'll begin with Juror No. 38 would be  
5 the first one that we would bring back.

6 What I will do is, as I explained the other day at  
7 the pretrial conference, specifically remind them of the  
8 questions that my notes showed an affirmative answer to, and  
9 ask some follow-up. I'll then give counsel an opportunity to  
10 ask follow-up. As long as everyone minds their manners, we'll  
11 continue that during the course of the voir dire.

12 Mr. Sindler, any reason we can't bring Mr. Warren  
13 back?

14 MR. SINDLER: No, Your Honor.

15 THE COURT: Mr. Ortiz, Ms. King?

16 MS. KING: No, Your Honor.

17 Will you let the parties know which questions you  
18 believe the juror affirmatively responded to before they come  
19 in?

20 THE COURT: Yes.

21 MR. SINDLER: Which question do you plan to start  
22 with?

23 THE COURT: Question 21 is the first one he answered  
24 a yes to.

25 Mr. Warren, if you need a water, just help yourself.

1           Mr. Sindler, can we start bringing the jurors in who  
2 have answered affirmatively to any question? I'm going to go  
3 in order. If we get to a juror that did not answer  
4 affirmatively to any question, including -- I know Juror No. 5  
5 who you believe you had difficulty hearing the employer.

6           Does anyone need me to bring her back or him back  
7 just to confirm who Juror No. 5's employer was?

8           MS. KING: No.

9           THE COURT: If we get to a juror as we're going down  
10 the list that did not have an affirmative answer to any  
11 question, I'll ask you if based on the answers you heard in the  
12 courtroom you have any challenges for cause. If need be, then  
13 we would bring the juror back, but otherwise, they would be in  
14 the pool and we'd move to the next one. I'll ask each juror  
15 that had at least one affirmative answer follow-ups to the  
16 questions and I'll do them in the numerical order in which the  
17 affirmative answer occurred.

18           Does that help you out?

19           MR. SINDLER: Yes.

20           THE COURT: Any reason we can't bring Juror No. 8  
21 back who would be the first one we would be speaking with?

22           MR. SINDLER: No.

23           THE COURT: Mr. Ortiz and Ms. King?

24           MS. KING: No.

25           THE COURT: Juror 38 responded yes to Questions 21

1 and 38.

2 (Juror No. 38 enters chambers.)

3 THE COURT: We're back here with Juror No. 38.

4 Sir, you gave a yes answer to two questions, No. 21,  
5 and No. 38.

6 No. 21 was: Have you or a member of your immediate  
7 family ever been employed as a firefighter or affiliated with  
8 any fire department?

9 What caused you to answer yes to that one?

10 JUROR NO. 38: I have a nephew that was with the  
11 West View Volunteer Fire Department. Numerous cousins that was  
12 involved with the Perrysville Volunteer Fire Department. They  
13 weren't employed but they were volunteers.

14 THE COURT: They participated?

15 JUROR NO. 38: Correct.

16 THE COURT: Do you know if those family members that  
17 were with West View and/or Perrysville Fire Department are  
18 still affiliated with them as volunteer firefighters still  
19 involved?

20 JUROR NO. 38: No.

21 THE COURT: Do you know of any of them ever having a  
22 particularly good or not so good experience with that service?

23 JUROR NO. 38: No, I think the rapport was all good.

24 THE COURT: Then Question 38 was whether you or any  
25 member of your family own or possess any type of firearm or

1 ammunition?

2 Can you tell us a little bit about what that is and  
3 for what purpose.

4 JUROR NO. 38: I am a hunter. I have a lot of  
5 hunting rifles and shotguns. I do own a couple of pistols. My  
6 wife -- recently we purchased her a pistol. I don't know why  
7 either, for protection, I guess, but just for home security  
8 purposes.

9 THE COURT: Do either of you have a concealed carry  
10 permit or anything like that?

11 JUROR NO. 38: No.

12 THE COURT: Ms. King or Mr. Ortiz, any follow-up to  
13 Juror No. 38?

14 MR. ORTIZ: Do you know exactly how many guns you  
15 own?

16 JUROR NO. 38: Mainly hunting guns, probably two,  
17 three shotguns, three rifles, two pistols. My wife has a  
18 pistol, three. And a German Luger that is my father's as a  
19 keepsake, but nine or ten.

20 THE COURT: Any other follow-up, Ms. King or  
21 Mr. Ortiz?

22 MS. KING: No, Your Honor.

23 THE COURT: Mr. Sindler, any follow-up?

24 MR. SINDLER: No, Your Honor.

25 THE COURT: Thank you, sir.

1 (Juror No. 38 exits chambers.)

2 THE COURT: Any issues for cause relative to 38?  
3 Mr. Sindler?

4 MR. SINDLER: No.

5 THE COURT: Ms. King or Mr. Ortiz?

6 MS. KING: No, Your Honor.

7 THE COURT: 38 is in the pool.

8 MR. SINDLER: Can I speak to my client for a moment  
9 while we are bringing the juror back?

10 THE COURT: Can we have Mr. Warren --

11 THE MARSHALL: I can escort him back.

12 MR. SINDLER: Is that all right, just for a moment.

13 THE COURT: Absolutely.

14 (Defendant exits chambers with Mr. Sindler.)

15 THE COURT: Ms. Kienzle, if you'd note that  
16 Mr. Sindler and Mr. Warren had left chambers momentarily for a  
17 private consultation.

18 While they were gone, there were no proceedings, no  
19 conversation, no anything other than allowing Mr. Ortiz to  
20 stand up.

21 Do you concur, Ms. King?

22 MS. KING: I do.

23 THE COURT: Do you concur, Mr. Ortiz?

24 MR. ORITZ: I do.

25 THE COURT: Do you concur, Mr. Greer?



1 MR. GREER: Yes.

2 THE COURT: We will bring in Juror 7 who answered  
3 yes to the same two questions, 21 and 28.

4 (Juror No. 7 enters chambers.)

5 THE COURT: We have present Juror No. 7 who  
6 responded yes to two questions, No. 21 and No. 38.

7 Sir, Question 21 was: Have you or a member of your  
8 immediate family ever been employed as a firefighter or  
9 affiliated with any fire department?

10 Can you tell us what you had in mind that led to a  
11 yes answer?

12 JUROR NO. 7: I was a volunteer firefighter for  
13 eight years near Ithaca, New York.

14 THE COURT: How long ago did that service end?

15 Juror No. 7: When I was 24 so, about four years.

16 THE COURT: Did it end satisfactorily to you and the  
17 fire department?

18 Juror No. 7: Yes.

19 THE COURT: Then you answered yes to Question 38  
20 which was whether you or any member of your family owned or  
21 possessed any type of firearm or ammunition and if so what kind  
22 and for what purpose?

23 JUROR NO. 7: I have two handguns, a .9 millimeter  
24 and .22 caliber. I was in the Army for 20 years, so I did buy  
25 a Beretta.

1 THE COURT: That's the .9 millimeter.

2 JUROR NO. 7: Yes. The other one is for target  
3 practice. And then I have a .22 caliber rifle, a Ruger.

4 THE COURT: Do you use that for hunting or target  
5 practice?

6 JUROR NO. 7: Barely anything at this point.

7 THE COURT: Do you have a concealed carry permit?

8 JUROR NO. 7: I do not.

9 THE COURT: If you generally describe for what  
10 purpose you had the firearms.

11 JUROR NO. 7: Target practice, familiarity.

12 THE COURT: Mr. Sindler, any follow-up for Juror No.  
13 7?

14 MR. SINDLER: No.

15 THE COURT: Mr. Ortiz or Ms. King?

16 MS. KING: No.

17 JUROR NO. 7: The last one, I tend to forget this,  
18 I'm involved in a malpractice. I'm a defendant.

19 THE COURT: Is that in court somewhere?

20 JUROR NO. 7: It's still in discovery.

21 THE COURT: An actual lawsuit was filed.

22 JUROR NO. 7: Yes.

23 THE COURT: What court?

24 JUROR NO. 7: Fayette County.

25 THE COURT: Common Pleas Court?

1 JUROR NO. 7: County court, I believe.

2 THE COURT: Do you know who your lawyer is?

3 JUROR NO. 7: Jason Logue.

4 THE COURT: Do you know who the lawyer is that's on  
5 the other side of the case?

6 JUROR NO. 7: At least one of them, there are two  
7 Davis brothers, I can't remember which one it is in Fayette  
8 County.

9 THE COURT: They are down in the Uniontown area?

10 JUROR NO. 7: Yes.

11 THE COURT: Without going into explicit detail, can  
12 you generally say what the case is about?

13 JUROR NO. 7: It was a delay in diagnosis.

14 THE COURT: That's the claim against you?

15 JUROR NO. 7: Yes.

16 THE COURT: Are there other people who have been  
17 sued in that lawsuit?

18 JUROR NO. 7: The corporation which employs me, yes.

19 THE COURT: Any hospitals or other providers?

20 JUROR NO. 7: I honestly don't know at this point  
21 whether they have also been named. I think they retained  
22 separate counsel.

23 THE COURT: Ms. King or Mr. Ortiz, any follow-up to  
24 that?

25 MS. KING: No, Your Honor.

1 MR. SINDLER: Do you have any views of the legal  
2 profession as a result of being involved and is it different  
3 from before you were involved in this case?

4 JUROR NO. 7: It's not the first time I have been  
5 involved in a malpractice suit, so it doesn't changes anything.  
6 There are certain lawyers that look for that type of work. But  
7 I have been doing this for a long time, I know these things  
8 happen and I feel patients have a right to redress as well.

9 THE COURT: Is there anything about the current  
10 lawsuit or your experience in it or any other experiences  
11 you've had with the legal system that you think would get in  
12 your way of rendering a verdict in this case based only on the  
13 evidence you hear in the courtroom and in the instructions as I  
14 give them.

15 JUROR NO. 7: I don't think so.

16 THE COURT: You'd be able to do that?

17 JUROR NO. 7: Yes.

18 THE COURT: Mr. Sindler, any follow-up.

19 MR. SINDLER: No.

20 THE COURT: Mr. Ortiz?

21 MR. ORTIZ: Did any of your prior suits actually get  
22 submitted to a jury?

23 JUROR NO. 7: No, they either settled or were  
24 dropped.

25 THE COURT: Any other follow-up for Juror No. 7?

1 MS. KING: No, Your Honor.

2 THE COURT: Thank you very much for coming in.

3 (Juror No. 7 exits chambers.)

4 THE COURT: Ms. King or Mr. Ortiz, any issues for  
5 cause?

6 MR. ORTIZ: No, Your Honor.

7 THE COURT: Mr. Sindler?

8 MR. SINDLER: No.

9 THE COURT: Juror 28, who responded yes to two  
10 questions, No. 22 and No. 38.

11 (Juror No. 28 enters chambers.)

12 MR. BABIK: Juror No. 28.

13 THE COURT: Counsel, we have Juror No. 28 with us.

14 Juror 28 is here because he gave two yes answers to  
15 Questions 22 and 38.

16 Question 22, sir, was: Have you ever studied law?  
17 You said yes. Can you tell us about that.

18 JUROR NO. 28: It goes back to high school and a  
19 little bit of college. We had a pretty good law program at  
20 Latrobe and I participated in a few moot courts in Harrisburg.

21 THE COURT: While you were in high school?

22 JUROR NO. 28: Yes.

23 THE COURT: Did you enjoy that?

24 JUROR NO. 28: Yes, I did.

25 THE COURT: About how long ago was that, sir?

1 JUROR NO. 38: 35 plus years ago.

2 THE COURT: Tell me about college. You said you had  
3 a little experience in college.

4 JUROR NO. 28: Just intro to law when I started  
5 college, and then I left college.

6 THE COURT: What courses of study were you pursuing?

7 Juror No. 28: Food service management.

8 THE COURT: Where was that, sir?

9 JUROR NO. 28: That was Westmoreland County  
10 Community College.

11 THE COURT: Then Question 38, sir, was whether you  
12 or any member of your family owned or possessed any type of  
13 firearm or ammunition, and, if so, what kind and for what  
14 purpose?

15 Can you tell us about that.

16 JUROR NO. 28: I'm a hunter. I own firearms for  
17 hunting. I own firearms for personal defense. I do have a  
18 concealed carry permit for the State of Pennsylvania.

19 THE COURT: Can you briefly describe what types of  
20 firearms you own.

21 JUROR NO. 28: I have shotguns, revolvers, rifles,  
22 semi-automatic handguns.

23 THE COURT: If you had to estimate, how many long  
24 guns and how many handguns?

25 JUROR NO. 28: Probably a dozen handguns and

1 probably eight long guns.

2 THE COURT: Have you ever been in a position where  
3 you had to use any of them other than for sporting or target  
4 purposes?

5 JUROR NO. 28: No, sir.

6 THE COURT: Mr. Sindler, any follow-up for Juror No.  
7 28?

8 MR. SINDLER: No.

9 THE COURT: Mr. Ortiz and Ms. King?

10 MS. KING: No.

11 (Juror No. 28 exits chambers.)

12 THE COURT: Mr. Sindler, any cause issues with Juror  
13 No. 28?

14 MR. SINDLER: No.

15 THE COURT: Ms. King and Mr. Ortiz?

16 MS. KING: No.

17 THE COURT: No. 28 is in the pool.

18 The next one we would have that had no yes answers  
19 is No. 5. Are there any cause issues based on the answers to  
20 the general questions or anything further that anyone wants  
21 explored with No. 5?

22 MS. KING: No, Your Honor.

23 MR. SINDLER: I don't have the piece of paper that  
24 is out at the table, can I take a moment to go, I apologize, I  
25 thought I brought it in.

1 THE COURT: You may, that's fine

2 (Mr. Sindler leaves chambers.)

3 (Mr. Sindler enters chambers.)

4 THE COURT: The record will note that Mr. Sindler  
5 has returned to the room after briefly retrieving something  
6 from counsel table.

7 Mr. Warren, can you confirm there was no  
8 conversation whatsoever while your lawyer was out of the room?

9 THE DEFENDANT: No conversation.

10 THE COURT: Mr. Ortiz and Ms. King, do you agree?

11 MS. KING: Yes.

12 THE COURT: Mr. Greer?

13 MR. GREER: Yes, Judge.

14 THE COURT: Does anyone need Juror No. 5 that had no  
15 positive responses brought back for any follow-up questions of  
16 any type?

17 Ms. King or Mr. Ortiz?

18 MS. KING: No, Your Honor.

19 THE COURT: Mr. Sindler?

20 MR. SINDLER: I can confirm, no.

21 THE COURT: So no objections for cause, Juror No. 5  
22 is in the pool.

23 Mr. Greer, if Juror No. 34 can come back who  
24 responded yes to 21 and 38.

25 (Juror No. 34 enters chambers.)



1 THE COURT: Counsel, we have Juror 34 with us. She  
2 said yes in response to two questions, No. 21, and No. 38.

3 Ma'am, No. 21 was whether you or a member of your  
4 immediate family has ever been employed as a firefighter or  
5 affiliated with any fire department.

6 What led to your yes answer?

7 JUROR NO. 34: My father was a charter member of the  
8 fire company in south Franklin.

9 THE COURT: South Franklin Township.

10 JUROR NO. 34: Which is in Washington County.

11 THE COURT: Is he still living?

12 JUROR NO. 34: No.

13 THE COURT: Do you know about how long he was in  
14 that fire company?

15 JUROR NO. 34: I can't remember when they  
16 established it. It was basically until he was dead, until he  
17 was deceased.

18 THE COURT: How long ago did he pass away?

19 JUROR NO. 34: In 2002.

20 THE COURT: As far as you know, did he have a  
21 particularly good or bad experience there, everything go okay?

22 JUROR NO. 34: Yes. It's volunteer, yes.

23 THE COURT: Then No. 38, was whether you or anyone  
24 in your family owned any firearms or ammunition and, if so,  
25 what kind and for what purpose?

1 JUROR NO. 34: We have a couple shotguns.

2 THE COURT: When you say "we."

3 JUROR NO. 34: My husband. I have shot a pistol  
4 before, a handgun, but I don't touch them.

5 THE COURT: Tell us about your husband.

6 JUROR NO. 34: He has hunting rifles because he used  
7 to go hunting. He doesn't really hunt that much anymore.  
8 Couple shotguns, he has a couple handguns. We live in the  
9 country, so basically some of the guns are used for some of the  
10 animals, we have raccoons, coyotes out our way. He hasn't gone  
11 hunting for a period of time, but he does have guns. My son  
12 does, too.

13 THE COURT: Does he live with you or somewhere else?

14 JUROR NO. 34: He lives across the road from us.

15 THE COURT: What kind of weapons does he have, if  
16 you know?

17 JUROR NO. 34: He has a shotgun. I think he has a  
18 hunting rifle, too. I'm not sure.

19 THE COURT: Does he hunt, your son?

20 JUROR NO. 34: Some.

21 THE COURT: How old is your son?

22 JUROR NO. 34: 29.

23 THE COURT: How old is your husband?

24 JUROR NO. 34: 63.

25 THE COURT: Do you your son or your husband have a

1 concealed carry permit.

2 JUROR NO. 34: My husband does. I don't know if my  
3 son does or not.

4 THE COURT: Do you know if any of you, your husband  
5 or your son, have ever used any of the firearms for anything  
6 other than hunting or target practice?

7 JUROR NO. 34: No, they haven't.

8 THE COURT: Mr. Ortiz, Ms. King any follow-up to  
9 those questions?

10 MR. ORTIZ: I guess I wasn't sure that I understood.  
11 Your son lives across the road from you?

12 JUROR NO. 34: He lives -- my mother-in-law died a  
13 couple years ago, so he and his wife live in her house right  
14 now.

15 MR. ORTIZ: Separate house?

16 JUROR NO. 34: He's married, they have a kid,  
17 totally separate.

18 MR. ORTIZ: Thank you.

19 THE COURT: Any other follow-up, Ms. King or  
20 Mr. Ortiz?

21 MS. KING: No.

22 THE COURT: Any follow-up, Mr. Sindler?

23 MR. SINDLER: No.

24 THE COURT: Thank you very much, Juror No. 34.

25 (Juror No. 34 exits chambers.)

1 THE COURT: Mr. Sindler, any cause issues with Juror  
2 No. 34?

3 MR. SINDLER: No.

4 THE COURT: Mr. Ortiz or Ms. King?

5 MS. KING: No.

6 THE COURT: Juror No. 34 is in.

7 That brings us to 16 who responded yes to 15, 18 and  
8 32.

9 (Juror No. 16 enters chambers.)

10 MR. BABIK: I have Juror No. 16.

11 THE COURT: Counsel, we have Juror No. 16 here. He  
12 responded yes to three questions, No. 15, No. 18 and No. 32.

13 Sir, No. 15 was whether you or any member of your  
14 immediate family has ever been employed or sought to be  
15 employed by the federal government, other than the military, or  
16 any state, local, county or federal law enforcement agency or  
17 court in a paid or volunteer capacity.

18 You answered yes. Tell us about that.

19 JUROR NO. 16: I work at the county jail. I have  
20 been asked several times if I want to become a CO.

21 THE COURT: CO stands for?

22 JUROR NO. 16: Correctional officer. I have never  
23 followed through, but I have been asked.

24 THE COURT: How recently were you asked?

25 JUROR NO. 16: Maybe until the last year. It was by

1 a CO.

2 THE COURT: By another CO?

3 JUROR NO. 16: Yes.

4 THE COURT: Was it somebody in management or  
5 supervision?

6 JUROR NO. 16: No, sir.

7 THE COURT: Has anybody in management or  
8 supervision?

9 JUROR NO. 16: They have not.

10 THE COURT: This is the Allegheny County Jail?

11 JUROR NO. 16: Yes, sir.

12 THE COURT: As I recall from your answers in the  
13 courtroom, you're an employee of the Allegheny Intermediate  
14 Unit.

15 JUROR NO. 16: I'm an educator of the Allegheny  
16 Intermediate Unit. At the Allegheny County Jail I have several  
17 classes there where I have direct contact with the inmates.

18 THE COURT: You work five days a week, twelve hours  
19 a day, it's an eight hours a day.

20 Juror No. 16: Seven to three.

21 THE COURT: Question 18 was have you or a member of  
22 your immediate family ever been a victim of a crime.

23 What led to your yes?

24 JUROR NO. 16: Yes, my mother. Domestic abuse. My  
25 father, my late father. Domestic and family abuse, and my

1 older brother has been robbed.

2 THE COURT: Let's start with the situation with your  
3 mother. Did any of that ever lead to --

4 JUROR NO. 16: Incarceration?

5 THE COURT: Or just charges, formal, criminal, legal  
6 proceedings?

7 JUROR NO. 16: Yes, but I didn't feel that was  
8 necessary to bring it up because he's a late father and it  
9 doesn't affect my situation at all.

10 THE COURT: How long ago the did your father pass  
11 away?

12 JUROR NO. 16: September 10, 2015.

13 THE COURT: Was he ever incarcerated as a result of  
14 that?

15 JUROR NO. 16: I believe he has time on the books in  
16 the Allegheny County Jail, yes, for public drunkenness, I  
17 believe.

18 THE COURT: When he was there, was that because he  
19 had been convicted of a criminal offense or he was being held  
20 pending a trial?

21 JUROR NO. 16: I'm not certain.

22 THE COURT: Approximately how old was your father  
23 when he passed away?

24 JUROR NO. 16: My father would have been 56 -- 59.

25 THE COURT: At the time your father passed away --

1 let me ask you this, is your mother still living?

2 JUROR NO. 16: Yes, sir.

3 THE COURT: Does she live in the Pittsburgh area?

4 JUROR NO. 16: Yes, sir. I live and rent from her.

5 THE COURT: In the same home?

6 JUROR NO. 16: Yes.

7 THE COURT: About how long have you done that?

8 JUROR NO. 16: Since graduating college.

9 THE COURT: How long is that?

10 JUROR NO. 16: 2009.

11 THE COURT: About six years?

12 JUROR NO. 16: Yes, sir.

13 THE COURT: Did any of the domestic violence that  
14 you described, did any of that ever occur in your presence?

15 JUROR NO. 16: Yes, sir.

16 THE COURT: Were you physically involved in any way  
17 while that was going on?

18 JUROR NO. 16: Yes, sir.

19 THE COURT: Could you briefly tell us in your own  
20 words.

21 JUROR NO. 16: My father was an alcoholic and  
22 teenage angst, I felt it necessary to defend my mother's honor.  
23 At times, I placed myself in situations I should not have. I  
24 have been struck. I have seen her struck. Or to take care of  
25 that other siblings and I got together and told our mother we

1 were not going to deal with this. She made a decision to get a  
2 PFA, removed him from the home, and they proceeded getting a  
3 divorce.

4 THE COURT: After that PFA was obtained, were there  
5 any allegations that it was violent in any way?

6 JUROR NO. 16: Not that I know of.

7 THE COURT: Generally, how would you describe your  
8 relationship with your mother?

9 JUROR NO. 16: Very close.

10 THE COURT: Generally, how would you describe your  
11 relationship with your late father in say the last three or  
12 four years of your life?

13 JUROR NO. 16: We were disconnected, but I learned a  
14 lot of his mistakes, that's why I chose to work at county jail.

15 THE COURT: Why is that?

16 JUROR NO. 16: People get a chance to better  
17 themselves. I believe in our justice system. I've seen the  
18 ability to grow from people's mistakes. A lot of my students  
19 come in being -- having committed or not committed a crime,  
20 they're able to better themselves and go back into life as  
21 recidivized individuals and learn from it. I saw my father's  
22 ability to do that and so that urged me to want to do it  
23 yourself.

24 THE COURT: When you say you saw your father's  
25 ability to do it, what do you mean?



1 JUROR NO. 16: He took classes, he went to the  
2 classes I teach, and at that point he started his own business,  
3 and then fell back into his bad habits later on, but I've seen  
4 the ability for rehabilitation that happened.

5 THE COURT: What classes do you teach?

6 JUROR NO. 16: I teach pre-apprenticeship  
7 mathematics, pre-GED for females and I teach computer literacy  
8 and work readiness.

9 THE COURT: Work readiness?

10 JUROR NO. 16: Yes, sir.

11 THE COURT: Question 32 was if you were representing  
12 the government or the defendant in this case, is there any  
13 reason why you would not be content to have the case decided by  
14 you or someone in your frame of mind, and you said yes.

15 JUROR NO. 16: My concern would be from the fact I  
16 worked at the county jail, I would be afraid that he wouldn't  
17 get any educational services being we had a close encounter.

18 THE COURT: Who is he?

19 JUROR NO. 16: Any person, any defendant who has  
20 been incarcerated at any time.

21 THE COURT: Help me understand that a little better.

22 JUROR NO. 16: I felt like if anyone in the  
23 situation that the defendant is in, were --

24 THE COURT: Meaning Mr. Warren?

25 JUROR NO. 16: Yes, Mr. Warren. I would want to

1 make sure he would get an education. I would be afraid if I  
2 were to serve on his jury, that I would not be able to serve  
3 him in the capacity he's meant to get while incarcerated.

4 THE COURT: So you would concern if he was otherwise  
5 going to become one of your students, the fact you were on the  
6 jury would prevent him from taking the class?

7 JUROR NO. 16: Yes, sir.

8 THE COURT: Are there others that teach your  
9 classes?

10 JUROR NO. 16: My two pre-apprenticeship classes,  
11 there are not.

12 THE COURT: You teach only at the Allegheny County  
13 Jail?

14 JUROR NO. 16: Yes, sir.

15 THE COURT: Now let me ask you this, sir. Is there  
16 anything about what you've heard about the case or your answers  
17 to any of the Court's questions today or your follow-up here  
18 that you think would get in the way of you rendering a fair and  
19 impartial verdict based only on the evidence you hear in the  
20 courtroom and the instructions that I gave you?

21 JUROR NO. 16: No, sir.

22 THE COURT: You could follow all of those?

23 JUROR NO. 16: Yes, sir.

24 THE COURT: You could put everything else aside?

25 JUROR NO. 16: Yes, sir.

1 THE COURT: Mr. Sindler, any follow-up questions?

2 MR. SINDLER: I don't remember what you had said, if  
3 you had said it. How long have you been working at the  
4 Allegheny Intermediate Unit.

5 JUROR NO. 16: I will be working there two years  
6 come December 16th.

7 MR. SINDLER: Has it been continuous?

8 JUROR NO. 16: Yes.

9 THE COURT: Have you been doing the same thing that  
10 you just described during those two years?

11 JUROR NO. 16: I also do pod runs where I get  
12 information off the inmates so they can further their  
13 education.

14 MR. SINDLER: I don't have any other questions.

15 THE COURT: When you say "pod runs," what is that  
16 shorthand for?

17 JUROR NO. 16: I go up to the pods where inmates are  
18 being kept and I get information off them so they can further  
19 their education. I ask them questions or I drop off diplomas  
20 and certifications.

21 THE COURT: You will recall when all the jurors and  
22 we were all in the courtroom, there were some other questions I  
23 asked you, I'd like to follow-up on some of those.

24 I'm going to instruct the jury, whoever is on the  
25 jury, that any defendant, including Mr. Warren, is presumed to

1 be innocent.

2 JUROR NO. 16: Correct.

3 THE COURT: They can be found guilty of a crime  
4 charged if and only if the government proves each and every  
5 element of the crime beyond a reasonable doubt and the jury  
6 verdict has to be unanimous. That's an instruction I'm going  
7 to give.

8 Do you believe you'd have any hesitation whatsoever  
9 in following that instruction?

10 JUROR NO. 16: I would have no hesitation  
11 whatsoever.

12 THE COURT: I will instruct the jury, just as I've  
13 said in the courtroom now, that whether any defendant in any  
14 criminal case chooses to testify or not, or present any  
15 evidence or not, is solely up to them. No defendant is  
16 required to testify or present any evidence, they don't even  
17 have to present a case and that cannot in any way, shape or  
18 form be held against them in a jury rendering its verdict.

19 Do you have any hesitation whatsoever in being able  
20 to follow that instruction?

21 JUROR NO. 16: I do not have any hesitation  
22 following that instruction.

23 THE COURT: Ms. King or Mr. Ortiz, any follow-up?

24 MR. ORTIZ: You spoke a little bit about the  
25 rehabilitation that you see with some of the inmates. Is your

1 interaction with them primarily about the goals that they want  
2 to achieve, or do you have discussions about their underlying  
3 offenses, why they're incarcerated.

4 JUROR NO. 16: My strict rule, I don't care who you  
5 are, where you're from, what you may or may not have, all I  
6 care about once you cross that threshold, you are not by  
7 yourself. If you accept that goal with me, I'm there through  
8 and through to help you learn and grow as an individual.  
9 That's it.

10 MR. ORTIZ: So discussion about the cases --

11 Juror No. 16: We have strict rules with AIU and  
12 Allegheny County Jail that we do not discuss cases or anything  
13 about cases inside or outside of our classrooms. That way we  
14 don't develop biases or any of those types of things.

15 THE COURT: Mr. Sindler, any further follow-up?

16 MR. SINDLER: No.

17 THE COURT: Let me ask you about the folks you  
18 teach. Are they all men, all women, or some of each.

19 JUROR NO. 16: I teach two classes of all gentlemen.  
20 And then I teach in the afternoons, I teach a class of all  
21 females. Evenings I teach a class of all females.

22 THE COURT: The people in your classes, are they a  
23 mix of people that are charged and awaiting trial and others  
24 who may have already had their trial, or is it just one or the  
25 other?

1 JUROR NO. 16: It is a mix. It goes through max  
2 security all the way down to people just waiting on detainers.

3 THE COURT: Mr. Sindler, any follow-up to the  
4 Court's questions?

5 MR. SINDLER: No.

6 THE COURT: Mr. Ortiz or Ms. King?

7 MS. KING: Do you know the status of the different  
8 people that you're working with, whether they are just on a  
9 detainer, whether they are convicted?

10 JUROR NO. 16: The only time I find that out is if  
11 they're getting to be in the red, which means they're about to  
12 be released, so I know if I can have time to test them or I can  
13 further their education or get a certificate.

14 MS. KING: Do you have access to their file that  
15 says what they did, why they're there?

16 JUROR NO. 16: I do not have access to the file. If  
17 it needs to be brought to my attention, it will be brought to  
18 my attention, but I have never had a situation where it has  
19 been brought to my attention. The only thing we do is we give  
20 them a basic intake form where they fill out their basic  
21 general information, so if upon release we need to get them a  
22 certificate or something, we have a contact place to mail it to  
23 or a place to make sure they get it at some time.

24 THE COURT: Sir, let me ask you this. In the whole  
25 time you have been assigned by the intermediate unit over to

1 the Allegheny County Jail, have you ever found yourself in any  
2 situations that you found that you believed were uncomfortable  
3 or unsafe to you?

4 JUROR NO. 16: No, sir. I've been in a situation  
5 where I felt that a comment was made toward a colleague of mine  
6 that I felt could have been detrimental to her which I did  
7 report and write up, but I have never felt uncomfortable or  
8 unsafe in my situation where I work.

9 THE COURT: By title or office, who did you write  
10 that up to?

11 JUROR NO. 16: To my boss. I also gave a copy of it  
12 to the investigation services in the jail.

13 THE COURT: Is your boss somebody that works for the  
14 intermediate unit?

15 JUROR NO. 16: Works for the intermediate unit.

16 THE COURT: Then you gave a copy to somebody who  
17 works for the jail?

18 JUROR NO. 16: Yes, sir.

19 THE COURT: Mr. Ortiz or Ms. King, any follow-up to  
20 the Court's questions?

21 MS. KING: No, Your Honor.

22 THE COURT: Mr. Sindler?

23 MR. SINDLER: Something that was a moment ago before  
24 we got to the next stage, Judge.

25 Is it the same people who are asking you to become a

1 CO or is it different individuals who are continually  
2 approaching you?

3 JUROR NO. 16: Usually the same person. It's more  
4 jovial, I feel like, but there are times where he's just like  
5 you can do this job a lot better than some of my peers.

6 MR. SINDLER: Do you like what you're doing?

7 JUROR NO. 16: I love teaching. Like I said, I have  
8 a degree in elementary education. When you see any individual,  
9 a child or adult understand something and they know how to use  
10 it to better their lives, it's remarkable.

11 MR. SINDLER: That's all I have.

12 THE COURT: Any other follow-up?

13 MS. KING: In the general questions you said you  
14 don't have a driver's license, is there a reason for that?

15 JUROR NO. 16: Yes. When I was younger, I was in a  
16 very bad accident where I ended up breaking my back and ended  
17 up losing offers for scholarships. Ever since, I've had  
18 permits and I left them lapse. I have developed a fear of  
19 driving in the evening with my permit. I always felt public  
20 transportation was my best bet. Yes, I mean to fix that.

21 THE COURT: What kind of scholarships do you feel  
22 you were in the running for?

23 JUROR NO. 16: I ran track and played football.

24 THE COURT: Where did you attend high school?

25 JUROR NO. 16: Chartiers Valley.



1 THE COURT: Any questions, Mr. Sindler?

2 MR. SINDLER: No.

3 THE COURT: Ms. King or Mr. Ortiz?

4 MS. KING: No, Your Honor.

5 THE COURT: Mr. Ortiz and Ms. King, any issues of  
6 cause for Juror No. 16?

7 MS. KING: No, Your Honor.

8 THE COURT: Mr. Sindler?

9 MR. SINDLER: We don't.

10 THE COURT: 16 is in.

11 Mr. Greer, please bring in No. 47 who responded yes  
12 to No. 12 and No. 38.

13 (Juror No. 47 enters chambers.)

14 THE COURT: Counsel, we have Juror 47 with us. She  
15 answered yes to two questions, No. 12 and No. 38.

16 Ma'am, No. 12 was: Have you ever served as a juror  
17 in a criminal or civil case or as part of a grand jury in  
18 federal, state or county court.

19 Tell us about that.

20 JUROR NO. 47: I was a juror for Fayette County for  
21 an assault case between a correction officer and an inmate.

22 THE COURT: Were you actually picked to be on the  
23 jury?

24 JUROR NO. 47: I was.

25 THE COURT: Did the case go to trial?

1 JUROR NO. 47: Yes, it did.

2 THE COURT: Did it go all the way until the jury  
3 deliberated and rendered a verdict?

4 JUROR NO. 47: Yes.

5 THE COURT: It was a unanimous verdict?

6 JUROR NO. 47: Yes, it was.

7 THE COURT: Do you recall whether it was conviction  
8 or acquittal?

9 JUROR NO. 47: It was an conviction.

10 THE COURT: About how long ago was this?

11 JUROR NO. 47: This was probably three years ago.

12 THE COURT: Was there anything about, anything at  
13 all about your experience as a juror that you found troublesome  
14 or troubling or concerning?

15 JUROR NO. 47: No.

16 THE COURT: Anything you found unsatisfactory,  
17 unpleasant about it?

18 JUROR NO. 47: No.

19 THE COURT: Looking back, any second thoughts about  
20 your time and service as a juror?

21 JUROR NO. 47: No.

22 THE COURT: You were treated okay by the court  
23 system down there?

24 JUROR NO. 47: Yes.

25 THE COURT: By the lawyers?

1 JUROR NO. 47: Yes.

2 THE COURT: By everyone else involved?

3 JUROR NO. 47: Yes.

4 THE COURT: You served as a juror one time?

5 JUROR NO. 47: Just one time.

6 THE COURT: Question 38 was whether you or anybody  
7 in your family owned any type of firearm and, if so, what kind  
8 or ammunition?

9 JUROR NO. 47: My husband actually has a deer rifle.  
10 That's the only gun we have in the house, but my brother owns a  
11 couple different firearms. I'm not 100 percent sure what type  
12 they are, but they don't live that far from me, and my dad owns  
13 a handgun.

14 THE COURT: Let's start with your husband. He is an  
15 active hunter. Does he go out most years?

16 JUROR NO. 47: Yes.

17 THE COURT: Have you ever fired a firearm?

18 JUROR NO. 47: I have. I have fired my brother's  
19 Glock.

20 THE COURT: A Glock. That's a handgun?

21 JUROR NO. 47: Yes.

22 THE COURT: Do you or any of your people you have  
23 talked about have a concealed carry permit?

24 JUROR NO. 47: My brother dad, my dad does.

25 THE COURT: Let's talk about your dad. You said he

1 has both long guns and a handgun?

2 JUROR NO. 47: He just has a handgun.

3 THE COURT: Do you know for what purpose?

4 JUROR NO. 47: He has it for protection in the  
5 house.

6 THE COURT: Then your brother, tell us about that.

7 JUROR NO. 47: My brother, he likes guns. He  
8 started -- I don't know, I think he has four or five different  
9 types of guns. He just enjoys shooting, so he actually belongs  
10 to a shooting range that he goes to. He's actually the one  
11 that actually taught me how to shoot.

12 THE COURT: Does he have both handguns and long  
13 guns?

14 JUROR NO. 47: He has handguns.

15 THE COURT: Do you know whether your husband, father  
16 or brother have ever had to use a firearm for any purpose other  
17 than hunting or target practice?

18 JUROR NO. 47: They have not.

19 THE COURT: Ms. King and Mr. Ortiz, any question  
20 follow-up questions?

21 MR. ORTIZ: No, Your Honor.

22 MS. KING: No.

23 MR. SINDLER: Did you serve as the foreperson on  
24 that jury.

25 JUROR NO. 47: I did not.

1 MR. SINDLER: I know that you answered Judge  
2 Hornak's questions about nothing standing out about that  
3 exercise of serving on a jury. The deliberations part did not  
4 stand out in any way for you either?

5 JUROR NO. 47: It was just a long process. We were  
6 there for a very long time. The only reason it sticks out to  
7 me is because we didn't dismiss on a normal time, my mother  
8 actually was supposed to be somewhere and I knew my kids were  
9 handled and she actually had my husband come down to the  
10 courthouse to see if my car was still in the parking garage  
11 because we ended up deliberating and the case wasn't done until  
12 about nine o'clock at night.

13 MR. SINDLER: Did you guys get a verdict on the same  
14 day in which you were given deliberations?

15 JUROR NO. 47: I believe it was three days.

16 MR. SINDLER: Of deliberations.

17 Juror No. 47: It did.

18 MR. SINDLER: I know you live in Lemont Furnace  
19 area.

20 JUROR NO. 47: I do.

21 MR. SINDLER: That does not propose any  
22 transportation or logistic issue if you are chosen to serve on  
23 this jury?

24 JUROR NO. 47: It does not.

25 THE COURT: Mr. Ortiz or Ms. King?

1 MS. KING: No, Your Honor.

2 THE COURT: Thank you very much.

3 (Juror No. 47 exits chambers.)

4 THE COURT: Mr. Sindler, any issues for cause with  
5 No. 47?

6 MR. SINDLER: No.

7 THE COURT: Mr. Ortiz or Ms King?

8 MS. KING: No, Your Honor.

9 THE COURT: No. 47 is in the pool as No. 7 in the  
10 pool.

11 24 has no yes or no answers. Does anyone need 24  
12 brought back for any follow-up or any cause issues?

13 MS. KING: No.

14 THE COURT: Mr. Sindler?

15 MR. SINDLER: Let me speak to my client for a  
16 moment.

17 THE COURT: Okay. That's fine.

18 We'll give Mr. Sindler and Mr. Warren an opportunity  
19 to speak. We'll be off the record while they are outside of  
20 the Court's office.

21 (Whereupon, there was a brief pause in the proceedings.)

22 (Defendant exits chambers with Mr. Sindler.)

23 THE COURT: Mr. Sindler and Mr. Warren have  
24 returned.

25 Mr. Greer, can you confirm for the record that in

1 their absence, the only conversation was the Court's brief  
2 discussion with you about the nature of your water bottle.

3 MR. GREER: Yes, Your Honor.

4 THE COURT: Do you concur, Mr. Ortiz and Ms. King?

5 MS. KING: Yes, Judge.

6 THE COURT: Mr. Sindler, should we bring Juror No.  
7 24 for any follow-up or cause issues?

8 MR. SINDLER: No.

9 THE COURT: Do you concur there are no cause issues  
10 for Juror No. 24?

11 MR. SINDLER: I do.

12 THE COURT: Mr. Ortiz and Ms. King?

13 MS. KING: Yes.

14 THE COURT: Juror 24 is in the pool of No. 8.

15 That would bring us to No. 57, Mr. Greer, who  
16 answered yes to 5, 18, and 38.

17 (Juror No. 57 enters chambers.)

18 THE COURT: Counsel, we have Juror 57 with us. She  
19 responded yes to several questions, three to be exact.

20 The first was No. 5. It asked if she knew anybody  
21 else on the jury panel, me, the Judge, or any member of the  
22 court staff?

23 What led you to a yes?

24 JUROR NO. 57: I know one of the jurors, No. 50.

25 THE COURT: How do you know Juror 50.

1 JUROR NO. 57: We went to college together and  
2 worked at a restaurant together for three years.

3 THE COURT: About how long ago were you in college?

4 JUROR NO. 57: 20 years. She lives -- we have  
5 mutual friends. She attends the church I work at sometimes,  
6 so, but it was a surprise to see her.

7 THE COURT: What college did the two of you attend  
8 together?

9 JUROR NO. 57: IUP.

10 THE COURT: When you were at IUP at the same time,  
11 were you in clubs, classes, see each other socially?

12 JUROR NO. 57: We just worked together, and  
13 sometimes socially because we worked together.

14 THE COURT: So people would go out after work or  
15 something like that?

16 JUROR NO. 57: Sometimes, not often.

17 THE COURT: Where did you work?

18 JUROR NO. 57: Denny's Restaurant.

19 THE COURT: Were you a server?

20 JUROR NO. 57: Uh-huh.

21 THE COURT: Was Juror No. 50 a server?

22 JUROR NO. 57: She was. She married a cook.

23 THE COURT: From Denny's?

24 JUROR NO. 57: Yes.

25 THE COURT: How long was it after you left IUP that



1 you next crossed paths with her?

2 JUROR NO. 57: It has only been a few years ago.

3 THE COURT: You work at a church now?

4 JUROR NO. 57: Yes.

5 THE COURT: Which church do you work at?

6 JUROR NO. 57: Otterbein United Methodist Church,  
7 which is right down from the courthouse in Greensburg, which  
8 would have been much more convenient.

9 THE COURT: You know that she occasionally attends  
10 services at that church?

11 JUROR NO. 57: I do.

12 THE COURT: Since you have left college and left  
13 work at Denny's, have you socialized with each other, families?

14 JUROR NO. 57: No.

15 THE COURT: Is there anything particularly positive  
16 or negative about your interactions or relationship with that  
17 other juror?

18 JUROR NO. 57: Not negative. We were friends.

19 THE COURT: If both of you, if it turned out both  
20 were selected to the serve on the jury -- we'll start with  
21 this, would you be able to base your verdict solely on the  
22 evidence you saw in the courtroom and the instructions I give  
23 as the judge?

24 JUROR NO. 57: Yes.

25 THE COURT: If you had a particular point of view on

1 a matter before the jury or the verdict, and Juror 50 had a  
2 different point of view, either on a matter or on the ultimate  
3 verdict, how would you feel about that?

4 JUROR NO. 57: I wouldn't care. I would be fine. I  
5 would hope we would work it out quickly.

6 THE COURT: Why would you hope that would happen?

7 JUROR NO. 57: Just because I watch TV, I would just  
8 hope it would work out, we could get to a common ground  
9 quickly.

10 THE COURT: What is it about watching TV?

11 JUROR NO. 57: Doesn't it take a long time to get  
12 through the system, the longer they take -- did you see Twelve  
13 Angry Men, did you see the show, an old, old --

14 THE COURT: One of the ways this works is I get to  
15 ask the questions.

16 JUROR NO. 57: Twelve Angry Men took a long time  
17 because they couldn't agree. So that's what I think about when  
18 I'm sitting here.

19 THE COURT: Do you recall in that film whether at  
20 the end they did all agree?

21 JUROR NO. 57: Yes.

22 THE COURT: If this took a longer or moderate or a  
23 shorter period of time, would that make any difference in your  
24 life?

25 JUROR NO. 57: Yes, it would. The only

1 difference -- yes, it would because I have an 11-year-old who  
2 is an elementary school who I have to put on the bus in the  
3 morning and get off the bus in the evening, and it's not close  
4 to our house, we have to drive to it and my husband has to --  
5 he had to go into work three hours late today for me to get  
6 here, and I don't -- we're not quite sure after school just  
7 yet. If it was longer, it would be an issue for us.

8 THE COURT: Do you live in the Westmoreland County  
9 area?

10 JUROR NO. 57: I live in Latrobe.

11 THE COURT: I was going to ask you how you made  
12 arrangements today. If this trial took several days this week,  
13 would you be able to make other arrangements to assist your  
14 11-year-old?

15 JUROR NO. 57: I don't know what we would do.

16 THE COURT: Family in the area?

17 JUROR NO. 57: Everybody works.

18 THE COURT: Close neighbors? Parents of other  
19 school children?

20 JUROR NO. 57: Not close. Everybody works. That's  
21 my problem. Even the neighbors, everybody works. So, like I  
22 said, he went to work three hours late today because of it. I  
23 don't know what we would do.

24 THE COURT: What line of occupation does your  
25 husband do?

1 JUROR NO. 57: He works for a 3D printing company.

2 THE COURT: In the Westmoreland County area?

3 JUROR NO. 57: Yes, in Irwin.

4 THE COURT: What work does he do for them?

5 JUROR NO. 57: He's in the production area in the  
6 back.

7 THE COURT: Do you know ballpark how many folks they  
8 have working out there?

9 JUROR NO. 57: Not that many. I don't know, though  
10 for sure.

11 THE COURT: Dozen? Couple dozen?

12 JUROR NO. 57: Couple dozen I would guess.

13 THE COURT: Your husband, is he one of the folks  
14 that operates the machines, or is he a supervisor, some of  
15 each?

16 JUROR NO. 57: He operates the machines. He's one  
17 of a couple, just two or three that I know of that operate the  
18 machines.

19 THE COURT: Are there ever occasions during the year  
20 that your family is away from Greensburg, maybe go on a  
21 vacation or some family or other things like that?

22 JUROR NO. 57: Not every year. We go on a vacation  
23 every other year.

24 THE COURT: Was this year one of those years?

25 JUROR NO. 57: No.

1 THE COURT: Was last year one of those years?

2 JUROR NO. 57: Last year.

3 THE COURT: How did your husband handle it at work,  
4 how did they handle it without him?

5 JUROR NO. 57: He took vacation.

6 THE COURT: Then they covered his work?

7 JUROR NO. 57: He scheduled it ahead of time.

8 THE COURT: You said your husband went in later  
9 today. Does that mean he'll work later because of that?

10 JUROR NO. 57: Yes.

11 THE COURT: Does he get paid on an hourly basis?

12 JUROR NO. 57: Yes.

13 THE COURT: About how long has he worked there?

14 JUROR NO. 57: He has been there for it will be two  
15 years in December.

16 THE COURT: Now, the next question that you answered  
17 yes to was No. 18. That was whether you or a member of your  
18 immediate family had ever been the victim of a crime.

19 What was on your mind for that?

20 JUROR NO. 57: We owned a business and --

21 THE COURT: Who is "we"?

22 JUROR NO. 57: My husband and I owned a business and  
23 it was burglarized. That means we weren't there, versus  
24 robbed. We weren't there when it happened, but we came to work  
25 and our windows were smashed out and money was stolen from our

1 business.

2 THE COURT: About how long ago was that?

3 JUROR NO. 57: That was a long time ago, that was in  
4 2000.

5 THE COURT: What kind of business was it?

6 JUROR NO. 57: A car lot.

7 THE COURT: Used car lot?

8 JUROR NO. 57: Yes.

9 THE COURT: In the Greensburg area?

10 JUROR NO. 57: Blairsville.

11 THE COURT: Was that burglary ever solved?

12 JUROR NO. 57: No. Whoever did it hit a bunch of  
13 the businesses on 22, little businesses on 22.

14 THE COURT: Approximately what was your loss?

15 JUROR NO. 57: A couple hundred dollars and some  
16 damage from breaking windows and doors.

17 THE COURT: Was any of that covered by insurance?

18 JUROR NO. 57: Yes. I think it would have been, but  
19 we didn't submit it to our insurance just because it was such a  
20 low amount of actual money and deductibles and stuff.

21 THE COURT: Was there anyone that you or law  
22 enforcement or others thought might be a suspect in that crime  
23 but were never charged?

24 JUROR NO. 57: Huh-uh.

25 THE COURT: Is that a no?

1 JUROR NO. 57: No.

2 THE COURT: Is there anything about that experience  
3 that you think would get in the way of you deciding this case  
4 based only on the evidence you heard in court and my  
5 instructions?

6 JUROR NO. 57: No.

7 THE COURT: You'd be able to do that?

8 JUROR NO. 57: Yes.

9 THE COURT: Anything else that caused you to respond  
10 yes to whether you or family member had ever been a victim to a  
11 crime?

12 JUROR NO. 57: No.

13 THE COURT: The next one you answered yes to is  
14 No. 38, which is whether you or anyone in your family owns a  
15 firearm or ammunition and, if so, what kind and for what  
16 purpose?

17 JUROR NO. 57: My husband owns some kind of a gun,  
18 but I don't think it's at our house even. We keep it at his  
19 parents' house because of our daughter. I don't actually know  
20 the purpose. I think his dad had given it to him. In the --  
21 he used to hunt a little bit, too, but he hasn't since we have  
22 been together. Then my brother is a hunter, too, and he has  
23 several guns. That's it.

24 THE COURT: Starting with your husband, is it a long  
25 gun like a rifle or shotgun or handgun?

1 JUROR NO. 57: I think it's a long gun, a rifle.

2 THE COURT: Do you know whether your husband has a  
3 concealed to carry permit?

4 JUROR NO. 57: He does not.

5 THE COURT: Has your husband ever used his rifle for  
6 anything other than hunting or target practice?

7 JUROR NO. 57: No.

8 THE COURT: Your brother, what kind of firearms does  
9 he have?

10 JUROR NO. 57: I don't know.

11 THE COURT: Do you know if he has a concealed carry  
12 permit?

13 JUROR NO. 57: I don't believe he does.

14 THE COURT: Do you know whether your brother has  
15 ever used his gun for something other than hunting or target  
16 practice?

17 JUROR NO. 57: I'm sure he has not.

18 THE COURT: Mr. Sindler, do you have any follow-up  
19 for Juror 57?

20 MR. SINDLER: No.

21 THE COURT: Mr. Ortiz and Ms. King, any follow-up?

22 MR. ORTIZ: No.

23 MS. KING: I do. You kind of indicated that you  
24 were concerned about the length of time that you would  
25 deliberate if you were picked to be on the jury. If you had



1 one position about that the defendant was innocent or guilty  
2 and the rest of the jury had a different position, would you  
3 change your mind just to get it over with?

4 JUROR NO. 57: I don't know.

5 THE COURT: Is it possible you might?

6 JUROR NO. 57: I don't know. I honestly have no  
7 idea. To me, right is right and wrong is wrong. But I don't  
8 know.

9 THE COURT: When you say right is right and wrong is  
10 wrong in these circumstances, what are you referring to?

11 JUROR NO. 57: Well, if something is presented in my  
12 mind as I see it, if it's right, if there's an injustice, to me  
13 it's right is right, so it would have to be like -- it would  
14 just have to be discussed and discussed. I don't know. I want  
15 to be fair, whatever that is, whatever direction, I just don't  
16 know.

17 THE COURT: Let me ask you this. As you heard in  
18 the courtroom, I will be instructing the jury that any  
19 defendant in any criminal case is presumed to be innocent.

20 JUROR NO. 57: Correct.

21 THE COURT: They may only be found guilty in the  
22 government proves each element of the offense beyond a  
23 reasonable doubt and the jury is unanimous in that regard.

24 Do you think you'd have any difficulty whatsoever in  
25 following that instruction?

1 JUROR NO. 57: I don't think so. I don't know. I  
2 don't mean to sound aloof either. I don't know. I don't know.  
3 I would think I could get to an answer.

4 THE COURT: In getting to the answer, one of the  
5 hallmarks, one of the rules of the road, if you will, for all  
6 the jurors, all twelve jurors that are deliberating is that  
7 from the very beginning of the trial until the very end of the  
8 trial, the defendant, any defendant is always presumed to be  
9 innocent. They can only be found guilty of a crime if the  
10 government has proven the crime beyond a reasonable doubt and  
11 all twelve members deliberating agree. That will be my  
12 instruction. It's a hallmark of our legal system.

13 Do you think you'd have any difficulty at all in  
14 following that instruction wherever it led?

15 JUROR NO. 57: No. But I don't think -- no. I  
16 don't think I understand your question based on her question.  
17 Should I just forget what she asked.

18 THE COURT: We take them one at a time.

19 We'll let Ms. King ask her question again.

20 MS. KING: I think my question was essentially if  
21 you thought that the evidence said one thing and other jurors  
22 thought that the evidence said something else, would you change  
23 your position just to be done?

24 JUROR NO. 57: No, I don't think I would. If I  
25 really believed it, I don't think I would be able to do that.

1 THE COURT: You don't think you'd be able to do  
2 that?

3 JUROR NO. 57: I don't think I'd be able to change  
4 my position if I really believed what I believed.

5 THE COURT: Then my question, which is separate, is  
6 I will be instructing the jury, as I mentioned in the  
7 courtroom, that in any criminal proceeding, a defendant is  
8 presumed to be innocent and they could only be found guilty if  
9 the government proves their case beyond a reasonable doubt, and  
10 the jury has to be unanimous.

11 Do you think you'd have any difficulty at all in  
12 abiding by that instruction?

13 JUROR NO. 57: I wouldn't, no.

14 THE COURT: You would have no difficulty?

15 JUROR NO. 57: No.

16 THE COURT: That includes if you and Juror No. 50  
17 had different views.

18 JUROR NO. 57: That wouldn't affect things.

19 THE COURT: That wouldn't affect things.

20 JUROR NO. 57: No.

21 THE COURT: Mr. Sindler, any follow-up to these  
22 questions?

23 MR. SINDLER: I appreciate your candor, but there is  
24 the concern about your child, the child's care, and, of course,  
25 the impositions that are being placed upon your husband's

1 employment.

2 JUROR NO. 57: I know.

3 THE COURT: Have those been going through your mind  
4 in answering these most recent questions?

5 JUROR NO. 57: Uh-huh.

6 MR. SINDLER: You're still holding to your answers?

7 JUROR NO. 57: I'm hoping that -- this is where I'm  
8 at right now and if this is five days later and the situation  
9 has changed, I would hope that I would be able to stand by what  
10 I'm saying. This is complicated.

11 MR. SINDLER: I don't have any other questions.

12 THE COURT: Mr. Ortiz and Ms. King?

13 MR. ORTIZ: Ma'am, at one point you said in  
14 answering some of the different questions something to the  
15 effect of I want to be fair. Do you have any reservation as  
16 you're discussing this now about whether or not you can be  
17 fair?

18 JUROR NO. 57: Gosh, I don't know. No, I can be  
19 fair. I can be fair.

20 MR. ORTIZ: Do the concerns about your daughter?

21 JUROR NO. 57: Yes. It's a big concern. I can't  
22 even pretend it's not. I have to be able to live with myself,  
23 too. So I feel like I would do what is right.

24 MR. ORTIZ: The concerns you have about your  
25 daughter and your husband and the work, do you have any belief

1 that that is going to impact how you view the evidence, how you  
2 deliberate, how much time you spend, whether or not you can be  
3 fair and impartial as a juror?

4 JUROR NO. 57: Do I have any concerns about it?

5 MR. ORTIZ: Yes.

6 JUROR NO. 57: No, I will be fair. I will be fair  
7 and impartial. I just won't be happy. I can't pretend that it  
8 will be easy. I do -- I have to live with myself. I'm not  
9 going to just lie, I'm not going to lie about it just to make  
10 it better for myself.

11 THE COURT: Ma'am, once the jury has been selected,  
12 before they begin their work, in court, Mr. Babik, who you saw  
13 this morning, will have all twelve seated members of the jury  
14 and the two alternates stand and he'll administer an oath to  
15 them. That oath is going to say that the jurors will truly and  
16 fairly do their duty and will deliver a true verdict based  
17 solely on the evidence in the courtroom and the instructions of  
18 the Court.

19 Do you have any reason to believe you would not or  
20 could not follow that oath?

21 JUROR NO. 57: I have no reason to believe that.

22 THE COURT: And you would follow that oath?

23 JUROR NO. 57: I would follow that oath.

24 THE COURT: Mr. Ortiz and Ms. King, any follow-up  
25 questions?

1 MS. KING: No, Your Honor.

2 THE COURT: Mr. Sindler?

3 MR. SINDLER: No, Your Honor.

4 THE COURT: Thank you for coming back.

5 (Juror No. 57 exits chambers.)

6 THE COURT: Mr. Ortiz, Ms. King, any issues for  
7 cause?

8 MR. ORTIZ: I don't.

9 MS. KING: No.

10 MR. SINDLER: I move to strike her, Judge. My  
11 concerns are her personal issues -- not personal issues but the  
12 matters of her personal life regarding her child and the  
13 secondary impact upon her husband's employment. I thought that  
14 there were some times here, no reflection upon anyone else here  
15 that she was being grilled and there were moments when she was  
16 looking to the sky for divine intervention it seemed. There  
17 may have been some times here when she was giving answers,  
18 depending upon the question, that the person wanted to hear,  
19 and I'm concerned that there are larger issues that are going  
20 to be competing for not only her interest but her service as a  
21 juror in this case.

22 THE COURT: When you say "larger issues," what do  
23 you think those could be? What drives your question?

24 MR. SINDLER: The child, child care issue. But in a  
25 more secondary issue, the employment issue that impacts her

1 husband because I guess at least today he was late or later a  
2 significant amount of time, three hours, in order to take care  
3 of the child or make sure the child is taken care of.

4 THE COURT: Okay.

5 I'm going to take that one under advisement. So  
6 there's a cause challenge for Juror No. 57.

7 Juror No. 8 had no yes answers.

8 Mr. Sindler, do you want Juror No. 8 brought back  
9 for any follow-up or any cause concerns based on what was  
10 stated in the courtroom?

11 MR. SINDLER: No concerns.

12 THE COURT: Mr. Ortiz and Ms. King?

13 MR. ORTIZ: No, Your Honor.

14 MS. KING: No.

15 THE COURT: Juror No. 8 is in the pool.

16 That would take us to Juror 27 who responded yes to  
17 questions 5, 15 and 38.

18 Mr. Greer, keep 57 out there. Keep her in the pool  
19 for now, subject to a cause challenge by the defense.

20 And that will bring us to Juror No. 27.

21 If counsel or Mr. Warren needs a break, let me know.

22 (Juror No. 27 enters chambers.)

23 THE COURT: We have Juror No. 27 with us. She  
24 responded yes to three questions. The first of which was  
25 No. 5. No. 5 reads: Do you know anybody else on the jury

1 panel, me, the Judge, or any member of the Court staff.

2 What led to a yes.

3 JUROR NO. 27: The attorney with Lampl's office, I  
4 recognize his face. As an official court reporter in Butler  
5 County, I believe he has appeared on a case there. I don't  
6 know him. I can't remember his name, but he stood up and said  
7 he knew somebody else on the panel and I thought he is talking  
8 about me and recognized me.

9 THE COURT: Do you recall any particular proceeding  
10 he might have been involved in while you were doing your work  
11 in Butler County?

12 JUROR NO. 27: No, but it seems like it was within  
13 the last two years.

14 THE COURT: Anything about that interaction that has  
15 left you with a particularly positive or negative feeling  
16 toward that other juror?

17 JUROR NO. 27: No, just a nice young man.

18 THE COURT: If it turned out that both of you were  
19 selected for service on the jury and it turned out that you and  
20 he had a different point of view on some issue in the case or  
21 on the ultimate verdict, do you believe the fact that you've  
22 seen him in court or are familiar with him would in any way  
23 affect your decisions as a juror?

24 JUROR NO. 27: Not at all. He was second seat,  
25 hardly opened his mouth.



1 THE COURT: Did you come away with any impression of  
2 his professional abilities as a attorney?

3 JUROR NO. 27: Competent, not so far in either  
4 direction that I would say anything, but just the general norm.

5 THE COURT: Do you recall generally what type of  
6 proceeding it was?

7 JUROR NO. 27: It was a trial. It was a several-day  
8 trial.

9 THE COURT: With a jury?

10 JUROR NO. 27: Yes. But I don't remember anymore  
11 than that.

12 THE COURT: When you do your official court reporter  
13 work up in Butler County, do you do them on all sorts of cases  
14 that are in the Common Pleas court.

15 JUROR NO. 27: Until about seven years ago we did  
16 all criminal and civil, everything, and about seven years ago  
17 we went exclusively civil, but I also go out to district  
18 justices' offices and report criminal, and if somebody is on  
19 vacation I report criminal.

20 THE COURT: Day to day you are on the civil side of  
21 court in Butler County?

22 JUROR NO. 27: Yes.

23 THE COURT: When you go out to the district  
24 magistrate cases, is that freelancing or is that with the court  
25 system?

1 JUROR NO. 27: We do it as a service to the court  
2 system. The public defenders will ask us to go rather than pay  
3 somebody and if we aren't -- if our courtroom doesn't have  
4 anything going that day, we can volunteer to go out for them.

5 THE COURT: You've said when others are on vacation,  
6 you might go over to one of the other divisions of the court?

7 JUROR NO. 27: Yes.

8 THE COURT: About how often does that happen?

9 JUROR NO. 27: The volunteering for someone else,  
10 probably, or filling in for them probably happens four or five  
11 days a week. District justice happens maybe once every three  
12 or four weeks.

13 THE COURT: You live in the Butler County area?

14 JUROR NO. 27: I do.

15 THE COURT: The next question you said yes to was  
16 No 15.

17 JUROR NO. 27: It may be part of that. I have been  
18 an official in federal court for four years and I've worked  
19 here on the grand jury also.

20 THE COURT: When is the last time you did any of  
21 that?

22 JUROR NO. 27: I'm looking at employers, '96, '97.  
23 They had the contract, so I just did an occasional day.

24 THE COURT: You came in to fill in or to supplement  
25 the court reporting staff in the building.

1 JUROR NO. 27: Grand jury is on contract and the  
2 company I was with had contract for it.

3 THE COURT: You said it was '96 and '97 when you  
4 last did that?

5 JUROR NO. 27: Yes.

6 THE COURT: Appreciate that.

7 Then No. 15 was whether you or anyone in your  
8 immediate family has been employed or sought to be employed by  
9 the federal government, other than military, or any state,  
10 local or county or federal law enforcement agency or court in a  
11 paid or volunteer capacity.

12 JUROR NO. 27: I did four years as an official in  
13 Federal District Court in San Diego, Southern District of  
14 California.

15 THE COURT: You were a formally appointed official  
16 federal court reporter there?

17 JUROR NO. 27: I was.

18 THE COURT: When did that happen?

19 JUROR NO. 27: '84 to '88 and that was all criminal.

20 THE COURT: Anything about that experience that you  
21 found particularly pleasant or unpleasant?

22 JUROR NO. 27: We worked 60 to 70 hours a week to  
23 keep up with the load, so I quit, but nothing else about it was  
24 unpleasant.

25 THE COURT: If you were selected for the jury here,

1 is there anything about your current service as a court  
2 reporter or past service as a court reporter in any capacity  
3 that you think would get in the way of you rendering a verdict  
4 based solely on the evidence in court here and the Court's  
5 instructions.

6 JUROR NO. 27: No.

7 THE COURT: You'd be able to follow those  
8 instructions?

9 JUROR NO. 27: I would.

10 THE COURT: Then lastly, Question 38 was a yes.  
11 That's whether you or anybody in your family owns a firearm or  
12 ammunition. If so, what type and for what purpose.

13 JUROR NO. 27: I know my brother occasionally hunts  
14 once every five years or so, so he must have a rifle or  
15 something.

16 THE COURT: Does he live here in the Western  
17 Pennsylvania area?

18 JUROR NO. 27: Yes.

19 THE COURT: Have you ever used that or any other  
20 firearm?

21 JUROR NO. 27: I have never used that firearm, but  
22 when I was a teenager, 20s, my father let me shoot a gun he had  
23 once or twice out behind our home in the country.

24 THE COURT: Was that a long gun or handgun?

25 JUROR NO. 27: Long gun.

1 THE COURT: Do you know whether your brother has a  
2 concealed carry permit?

3 JUROR NO. 27: I know he does not.

4 THE COURT: Do you know whether your brother has  
5 ever used his gun for something other than target practice?

6 JUROR NO. 27: He has not.

7 I have handled a pistol now that I think about it,  
8 but it was for continuing education, I took a class with the  
9 local police department to be a ride along because it gave the  
10 continuing ed points and they took us to a pistol range and had  
11 us try to shoot.

12 THE COURT: About how long ago was that?

13 JUROR NO. 27: Early '90s.

14 THE COURT: Who provided the handgun that you used  
15 for that exercise.

16 JUROR NO. 27: The police department. My hand is  
17 too small and I cannot pull the trigger and put my finger  
18 around the top so I was not able to do.

19 THE COURT: Mr. Sindler, any follow-up?

20 MR. SINDLER: Do you recall your work with any  
21 federal prosecutors back in '96 or '97 when you were here doing  
22 grand jury work?

23 JUROR NO. 27: No.

24 MR. SINDLER: But you must have done so ten years  
25 before that when you were in the Southern District of

1 California.

2 JUROR NO. 27: In the Southern District of  
3 California I remember one public defender. You see her on the  
4 national news. She goes around for death penalty cases, Judy,  
5 four or five letter word. Clark, Judy Clark. She's gotten  
6 such notoriety that I see her on TV going all over the United  
7 States.

8 THE COURT: Aside from just saying you spent five  
9 years on a contract basis doing federal grand jury work, does  
10 anything about that time stand out right now?

11 JUROR NO. 27: Not really, except I do remember one  
12 of the very notorious cases -- how should I put it? It was a  
13 large gang activity that went on for 18 months of reporting it,  
14 but again, I did maybe three days of testimony for the whole  
15 thing.

16 MR. SINDLER: That was the duration?

17 JUROR NO. 27: The duration and the like 50  
18 defendants involved in that. I don't know why that sticks out  
19 but it does. It was a conspiracy more than anything else.

20 MR. SINDLER: Okay.

21 That's all I have.

22 THE COURT: Mr. Ortiz and Ms. King?

23 MR. ORTIZ: Nothing, Your Honor.

24 MS. KING: Nothing, Your Honor.

25 THE COURT: Thank you for coming in, Juror 27.

1 (Juror No. 27 exits chambers.)

2 THE COURT: Ms. King, Mr. Ortiz, any issues for  
3 cause?

4 MR. ORTIZ: No.

5 THE COURT: Mr. Sindler?

6 MR. SINDLER: No.

7 THE COURT: Juror 27 is in.

8 Juror 20 had yes to one question,  
9 No. 38.

10 (Juror No. 20 enters chambers.)

11 THE COURT: Counsel, we have Juror No. 20 with us.

12 My notes reflect he answered yes to one question. That was  
13 whether he or anyone in his family owned or possessed a firearm  
14 or ammunition and, if so, what kind and for what purpose?

15 JUROR NO. 20: Well, I have a single shot 16-gauge  
16 shotgun. I bought back in the late '60s when I was first  
17 getting married. Since I was in the Navy at the time and was  
18 going to be gone a lot, I figured my wife could have something.  
19 She didn't like it. She didn't like having it. So, since  
20 then, I removed the firing pin so it's -- I don't know if you  
21 really call it a firearm anymore but the firing pin is  
22 someplace in the house. I don't know where.

23 THE COURT: Did you ever actually shoot the shotgun?

24 JUROR NO. 20: Yes.

25 THE COURT: Did your wife ever shoot it?

1 JUROR NO. 20: No.

2 THE COURT: Do you or your wife have a concealed  
3 carry permit?

4 JUROR NO. 20: No.

5 THE COURT: Do you know if that firearm was ever  
6 used for any purpose other than target shooting or hunting?

7 JUROR NO. 20: It was not because I bought it new.

8 THE COURT: Mr. Ortiz and Ms. King, any follow-up?

9 MS. KING: No, Your Honor.

10 MR. ORTIZ: No.

11 THE COURT: Mr. Sindler?

12 MR. SINDLER: No.

13 THE COURT: Thank you for coming in.

14 (Juror No. 20 exits chambers.)

15 THE COURT: Mr. Sindler, any issues for cause with  
16 Juror 20?

17 MR. SINDLER: No.

18 THE COURT: Ms. King and Mr. Ortiz?

19 MS. KING: No, Your Honor.

20 THE COURT: Juror 20 is in the pool.

21 Next we have 56 who answered yes to 15, 21, and 38.

22 (Juror No. 56 enters chambers.)

23 THE COURT: Sir, my notes indicate you said yes to  
24 three questions, 15, 21 and 38.

25 15 asked whether you or anybody in your immediate



1 family has been employed or sought to be employed by the  
2 federal government outside of the military or state, local and  
3 county or federal law enforcement or a court in a paid or  
4 volunteer capacity.

5 JUROR NO. 56: Yes, my stepfather is a PA state  
6 constable in Monroeville.

7 THE COURT: Is he the constable?

8 JUROR NO. 56: Yes.

9 THE COURT: Is he elected?

10 JUROR NO. 56: He's the constable.

11 THE COURT: He's your father-in-law?

12 JUROR NO. 56: Stepfather.

13 THE COURT: Do you live in the Monroeville area?

14 JUROR NO. 56: I do.

15 THE COURT: How often do you see your stepfather?

16 JUROR NO. 56: Daily.

17 THE COURT: Do you live with him?

18 JUROR NO. 56: No, he's my neighbor.

19 THE COURT: How long has he been constable?

20 JUROR NO. 56: Going on eight years, ten years  
21 maybe.

22 THE COURT: Somewhere in that area?

23 JUROR NO. 56: Yes.

24 THE COURT: Has he ever held any other law  
25 enforcement position?

1 JUROR NO. 56: He was a county sheriff before that.

2 THE COURT: Here in Allegheny County.

3 JUROR NO. 56: Yes.

4 THE COURT: Did he retire from that job?

5 JUROR NO. 56: I honestly don't know.

6 THE COURT: Do you know how his service came to an

7 end?

8 JUROR NO. 56: No.

9 THE COURT: Ballpark, how old is your stepfather?

10 JUROR NO. 56: Mid 50s.

11 THE COURT: Do you know how long he was a deputy

12 sheriff?

13 JUROR NO. 56: No.

14 THE COURT: How long has he been your stepfather?

15 JUROR NO. 56: Probably about 14 years.

16 THE COURT: Anybody else that you had in mind when

17 we asked question 15.

18 JUROR NO. 56: That was the main one. I have an

19 uncle that was a cop in Wilkinsburg.

20 THE COURT: Is he still a policeman in Wilkinsburg?

21 JUROR NO. 56: No.

22 THE COURT: Is he still living?

23 JUROR NO. 56: Yes.

24 THE COURT: How did his work come to an end?

25 JUROR NO. 56: I'm not totally sure about that.

1 THE COURT: About how often do you see that uncle?

2 JUROR NO. 56: I work with him, daily.

3 THE COURT: What line of work do you do?

4 JUROR NO. 56: I'm a delivery tech. He's manager of  
5 the maintenance group.

6 THE COURT: Is there anything about your uncle's  
7 prior service on the Wilkinsburg police or your stepfather's  
8 current service as constable or his past service as a deputy  
9 sheriff, that you think would in any way, shape or form get in  
10 the way of your ability to render a verdict in this case based  
11 solely on the evidence you heard in the courtroom and my  
12 instructions the jury?

13 JUROR NO. 56: No.

14 THE COURT: You'd be able to follow those right down  
15 the line?

16 JUROR NO. 56: Absolutely.

17 THE COURT: The next question you answered yes to  
18 was whether you or anybody in your family has been currently or  
19 in the past affiliated with any fire department or firefighter?

20 JUROR NO. 56: My step dad as well. He's assistant  
21 chief at Monroeville No. 3.

22 THE COURT: How long has he been involved with the  
23 fire service?

24 JUROR NO. 56: Ever since I have known him, probably  
25 a little longer than that.

1 THE COURT: Have you ever been involved in the fire  
2 service?

3 JUROR NO. 56: No.

4 THE COURT: Has he ever sought to get you involved  
5 in the fire service?

6 JUROR NO. 56: No.

7 THE COURT: Has there anything noteworthy in your  
8 stepfather's service that sticks out in your mind one way or  
9 the other?

10 JUROR NO. 56: No.

11 THE COURT: Lastly, question 38 asked whether you or  
12 anybody in your family owned or possessed a firearm or  
13 ammunition, if so, what purpose and what kind?

14 JUROR NO. 56: I own a variety of firearms. I'm an  
15 addict -- well, I wouldn't call myself a collector but I guess  
16 that would be a good word. I also do security work so I carry  
17 a gun for that.

18 THE COURT: Did you go through whatever state  
19 certification is required to carry a firearm as a security  
20 worker?

21 JUROR NO. 56: Yes.

22 THE COURT: Did you have any difficulty in acquiring  
23 that certification?

24 JUROR NO. 56: No.

25 THE COURT: Could you describe for us the types of

1 firearms you have.

2 JUROR NO. 56: I have a Smith & Wesson M&P40.

3 THE COURT: That's a handgun.

4 JUROR NO. 56: Yes.

5 THE COURT: That's a pistol?

6 JUROR NO. 56: Yes. I also own a Taurus 605 .357

7 Snub Nose.

8 THE COURT: That's a revolver?

9 JUROR NO. 56: Yes. I have a Heritage Arms .22

10 single-action revolver. I have a Bersa Thunder 380. That's a

11 pistol. A Mosin Nagant, which is old time Russian rifle. I

12 also built my own AR-15. I have a Mossberg 500.

13 THE COURT: It's operable, your AR-15 is operable?

14 JUROR NO. 56: Yes. A Mossberg 500. I think that's

15 it.

16 THE COURT: Do you have a concealed carry permit?

17 JUROR NO. 56: I do.

18 THE COURT: Have you ever used any of those firearms

19 for anything other than hunting or target practice?

20 JUROR NO. 56: No.

21 THE COURT: Other than the ones you work when you

22 work security; is that correct?

23 JUROR NO. 56: Yes.

24 THE COURT: Are you affiliated with any security

25 company or agency or are you on your own?

1 JUROR NO. 56: My uncle being a constable, he does  
2 do side work as security. Mostly at the Monroeville Convention  
3 Center.

4 THE COURT: It might be a special detail for an  
5 event that is being held at the Convention Center.

6 JUROR NO. 56: Most of the events, the gun shows  
7 that are there, they do a lot of comedy shows there, we do the  
8 security, weddings, if they require it, stuff like that.

9 THE COURT: Have you ever had to use or begin to use  
10 a firearm in conjunction with your security work as part of  
11 your duties, other than carrying it?

12 JUROR NO. 56: No.

13 THE COURT: Mr. Sindler, any follow-up?

14 MR. SINDLER: What conversations have you had with  
15 your stepfather with regard to his work as a constable?

16 JUROR NO. 56: Conversations?

17 MR. SINDLER: Yes.

18 JUROR NO. 56: All kinds. He's my stepfather. In  
19 regard to his job?

20 MR. SINDLER: I can clarify that. With regard to  
21 what he does as a constable.

22 JUROR NO. 56: Some.

23 MR. SINDLER: Does he talk about any events where  
24 he's involved with various police departments in the  
25 Monroeville area?

1 JUROR NO. 56: Yes. He does a lot of work with  
2 Monroeville PD, Pitcairn Police Department as well.

3 MR. SINDLER: Has he talked with you about that work  
4 from time to time?

5 JUROR NO. 56: Oh, yes.

6 THE COURT: In your work at the Convention Center,  
7 have you been working with uniformed police officers during  
8 those times where you're working at the Convention Center?

9 JUROR NO. 56: Only when there's an incident. We  
10 fill out a police report. We do that kind of stuff, but that's  
11 pretty much it.

12 MR. SINDLER: Is it a Convention Center report or  
13 are you filling out a report that is given to you by a police  
14 department?

15 JUROR NO. 56: We fill out a report for our records,  
16 depending on the issue. And then the police department in the  
17 area would show up, which would be Monroeville. Then it gets  
18 handed off to them. Just for like for recordkeeping.

19 MR. SINDLER: That's all I have.

20 THE COURT: Mr. Ortiz and Ms. King?

21 MS. KING: No.

22 MR. ORTIZ: No.

23 THE COURT: Sir, is there anything about your work  
24 on security matters as you've described or any interactions  
25 you've had with your stepfather or your uncle that you believe

1 would influence or affect your ability to render a verdict  
2 based solely on the evidence in the courtroom and my  
3 instructions?

4 JUROR NO. 56: No.

5 THE COURT: You'd be able to base your verdict,  
6 whatever that verdict was based only on the evidence you hear  
7 in court and the instructions I give you as the judge?

8 JUROR NO. 56: Yes, sir.

9 THE COURT: Ms. King and Mr. Ortiz, any follow-up to  
10 the Court's questions?

11 MS. KING: No, Your Honor.

12 MR. ORTIZ: No.

13 THE COURT: Mr. Sindler?

14 MR. SINDLER: No, Your Honor.

15 THE COURT: Thank you very much for coming in.

16 (Juror No. 56 exits chambers.)

17 THE COURT: Mr. Sindler, any cause issues with 56?

18 MR. SINDLER: No.

19 THE COURT: Mr. Ortiz and Ms. King?

20 MS. KING: No, Your Honor.

21 MR. ORTIZ: No, Your Honor.

22 THE COURT: 56 is in the pool.

23 No. 13 has seven yes answers, and I received a  
24 letter or the jury room received a letter asking that he go on  
25 jury duty for a different session. He works twelve hours a



1 day, six to seven days a week because there's a labor dispute  
2 where he's employed. Attached to that was a letter from some  
3 folks at ATI Flat Rolled Products saying: Please move this  
4 juror to a later date in 2016. We're in the midst of a lockout  
5 and our salaried employees, including this juror, are six days  
6 a week, twelve hours a day. Having him out for jury duty will  
7 put us in a very difficult situation.

8 I'm happy to bring him back and go through all the  
9 questions. I'm happy to rule on what we have in front of us.  
10 It is totally up to counsel.

11 MR. SINDLER: I move to strike him.

12 MS. KING: That's fine with us.

13 THE COURT: So, he will be removed from the pool.

14 We will excuse No. 13, Mr. Greer, with directions to  
15 the jury office to cycle him into a further down-the-road jury  
16 pool.

17 So 13 is removed.

18 That brings us to 52 who had questions responded yes  
19 to No. 18, 37 and 38.

20 Matt, make sure 52 is our next one.

21 (Juror No. 52 enters chambers.)

22 THE COURT: We have Juror 52 with us. She answered  
23 yes to three questions, No. 18, No. 37, and No. 38.

24 Question 18, just to jog our memory, is whether you  
25 or a member of your immediate family has ever been a victim of

1 a crime.

2 JUROR NO. 52: Yes. My home was broken into twice.  
3 Both were really bizarre circumstances. Both I think ended up  
4 being about kids breaking in. Nothing of great value was taken  
5 either time, except my Social Security.

6 THE COURT: Let's look at the most recent time that  
7 happened. How long ago was that?

8 JUROR NO. 52: About four years ago.

9 THE COURT: Did the police come and investigate?

10 JUROR NO. 52: They did.

11 THE COURT: Was that situation ever resolved? Have  
12 you ever determined who did it?

13 JUROR NO. 52: They did not.

14 THE COURT: Did you or the police have one or more  
15 suspects but they just weren't charged?

16 JUROR NO. 52: They had no idea. They did dust for  
17 prints, but they didn't find any match with anyone in their  
18 pool.

19 THE COURT: Was it the local police or the county  
20 police or state police that came out?

21 JUROR NO. 52: It was the local police in Swissvale.

22 THE COURT: Did you have insurance that covered any  
23 loss?

24 JUROR NO. 52: The losses were so insignificant I  
25 didn't even do that. They took my favorite costume jewelry

1 that was probably worth a total of \$40 and a few quarters from  
2 my desk.

3 THE COURT: Was anyone in the home when that  
4 break-in occurred?

5 JUROR NO. 52: I was out at a meeting.

6 THE COURT: When was the first episode?

7 JUROR NO. 52: The first episode was in a different  
8 home when I lived in Wilkinsburg. That would have been about  
9 25 years ago.

10 THE COURT: Was that investigated by any police?

11 JUROR NO. 52: It was not. It wasn't fully  
12 investigated. The police came to the home and to the best of  
13 my knowledge, they did not even dust for prints, they just came  
14 and saw that bizarre things had been taken and the things that  
15 had been taken were food from my refrigerator, blankets,  
16 pillows and towels and wash clothes. They didn't pursue it any  
17 further.

18 THE COURT: Did you or the police have any suspects  
19 in mind even though nobody was charged?

20 JUROR NO. 52: Yes.

21 THE COURT: Was that you or the police?

22 JUROR NO. 52: It was I.

23 THE COURT: Who were the suspects, by description?

24 JUROR NO. 52: A neighbor's teenage daughter who, as  
25 it turned out, and I had a suspicion of this, was harboring a

1 runaway. It was never proven and she denied it, but that's as  
2 far as anything went.

3 THE COURT: Was there any type of insurance claim  
4 with any of that?

5 JUROR NO. 52: None of that, no.

6 THE COURT: Was there anything else that led you to  
7 answer yes to that question?

8 JUROR NO. 52: No, sir.

9 THE COURT: Is there anything about those situations  
10 either separately or together that you believe would get in the  
11 way of your ability to render a verdict if you were a juror  
12 based only on the evidence in court here and the instructions I  
13 give you as the judge?

14 JUROR NO. 52: No, I don't believe so.

15 THE COURT: You'd follow that down the line?

16 JUROR NO. 52: I would.

17 THE COURT: Now, the next question you answered yes  
18 to was No. 37. No. 37 asked: Do you have any strong feelings  
19 for or against or relating to the private ownership of firearms  
20 or laws regulating their possession or firearms themselves,  
21 such that you would not be able to render a fair and impartial  
22 verdict in this case based solely on the evidence presented in  
23 the legal instructions of the Court?

24 JUROR NO. 52: I'm really kind of conflicted about  
25 the two parts of that question because I do have strong

1 feelings about private ownership of guns, which I believe  
2 should not be permitted. I have concerns about our country's  
3 gun laws and the lack of action that has dogged us as we try to  
4 deal with many school shootings and the dangers that have been  
5 escalating in our communities. So I do have a lot of concerns  
6 about that. I'm very agitated about that issue. Whether I  
7 would be able to put it aside and hear fully only the evidence  
8 presented, I'm really kind of struggling with that.

9 THE COURT: Can you describe that struggle for us.

10 JUROR NO. 52: I do believe, I fully believe that  
11 anybody, gun owner or non-gun owner has a right to a fair  
12 trial. I do believe it is my responsibility to do that. But  
13 the involvement of a firearm in this particular case as it has  
14 been described by you does bring up those feelings of concern,  
15 and my belief that this country really should look at that  
16 issue much more strongly and actually take action on it. So I  
17 am struggling with those two realities, my responsibility and  
18 then my strong feeling about that.

19 THE COURT: Let me ask you this, ma'am. You've  
20 heard this as part of my statement to the entire panel this  
21 morning and I would be restating it to the people selected for  
22 the jury, that in our system, at all times, any defendant is  
23 presumed to be innocent. No defendant could be found guilty of  
24 any crime unless the government proves every element of the  
25 crime beyond a reasonable doubt, and the jury has to be

1 unanimous.

2           If I give that instruction, I will give that  
3 instruction, if you were on the jury, do you think you'd have  
4 any hesitation at all in following that instruction?

5           JUROR NO. 52: I do not.

6           THE COURT: Once we get our twelve jurors and our  
7 two alternates selected and they're seated in the jury box, one  
8 of the very first things that will happen is Mr. Babik, who you  
9 met this morning will ask everyone in the jury box to rise.  
10 He'll administer an oath. By that oath everyone that is  
11 selected will under oath say, swear and affirm that they will  
12 do their duty, they will follow the law, they will render a  
13 fair and impartial verdict based only on the evidence presented  
14 in court and based on the Court's instructions.

15           Do you have any hesitation in believing you'd be  
16 able to follow that oath?

17           JUROR NO. 52: I do not.

18           THE COURT: I will be instructing the jury,  
19 everybody that is seated for the jury, that in any criminal  
20 proceeding, the government has the obligation to prove their  
21 case beyond a reasonable doubt.

22           Do you have any doubt that you'd be able to follow  
23 that instruction?

24           JUROR NO. 52: No, sir.

25           THE COURT: Now, the Question 38 was on a similar

1 topic. It asked whether you or any member of your family owned  
2 or possessed any type of firearm or ammunition, if so, what  
3 kind and for what purpose. And you answered yes.

4 JUROR NO. 52: I did. I'm the only member of my  
5 family who holds the believes I discussed with you. My sister  
6 and her husband are both avid hunters and are members of the  
7 NRA and are really quite, may I say, rabid about that issue.

8 THE COURT: Do they own long guns or handguns or  
9 both?

10 JUROR NO. 52: Both.

11 THE COURT: Do you know whether either of them have  
12 what is known as a concealed carry permit?

13 JUROR NO. 52: Not to the best of my knowledge.

14 THE COURT: Do they live here in the Allegheny  
15 County area?

16 JUROR NO. 52: They do not. They live in Warren  
17 County.

18 THE COURT: That's up near the New York border?

19 JUROR NO. 52: It is.

20 THE COURT: Do you know whether your brother and  
21 sister, whether they have ever used their firearms for any  
22 reason other than hunting or target shooting, target practice?

23 JUROR NO. 52: No, not to my knowledge. I know they  
24 don't have any such intent.

25 THE COURT: Do you have any personal experience with

1 firearms in any way, shape or form?

2 JUROR NO. 52: I do not.

3 THE COURT: Appreciate that, ma'am.

4 Mr. Ortiz and Ms. King, any follow-up questions, for  
5 Juror No. 52?

6 MR. ORTIZ: Ma'am, the way the two burglaries were  
7 investigated by the police, was that something that you were  
8 satisfied with, dissatisfied with? How did you view how they  
9 effectuated their job?

10 JUROR NO. 52: Well, I felt that the Wilkinsburg  
11 police who investigated the issue 25 years ago pretty much  
12 tossed it off. That didn't make any real happy, but the  
13 circumstances were such that I can see that they might have  
14 thought of it as trivial.

15 The Swissvale police who followed up on the more  
16 recent event did a very good job.

17 MR. ORTIZ: Did your displeasure from the first  
18 incident, has that carried through in any way with how you view  
19 the police, what they do, evaluate their actions?

20 JUROR NO. 52: No, not at all. It did cause me to  
21 leave Wilkinsburg and choose another home.

22 THE COURT: Aside from that?

23 JUROR NO. 52: No.

24 THE COURT: Mr. Sindler, sir?

25 MR. SINDLER: No.



1 THE COURT: Ma'am, thank you very much for coming in  
2 today.

3 (Juror No. 52 exits chambers.)

4 THE COURT: Mr. Sindler, any issues with cause?

5 MR. SINDLER: I move to strike her. She's very  
6 agitated about the gun violence in our country. Those are her  
7 words. I don't doubt that her answers to your questions about  
8 the burden of proof, keeping your deliberations to just the  
9 evidence heard or seen in the courtroom, and she's able to do  
10 that. She's able to also recognize my client's presumption of  
11 innocence and if or when that may change during deliberations,  
12 but you factor in this gun thing or this firearm thing with  
13 respect to her views on it and I think that it's going to be  
14 very difficult for her to put that aside in serving in this  
15 case. That's why we'd like to have her removed for cause.

16 THE COURT: Mr. Ortiz and Ms. King?

17 MR. ORTIZ: Judge, I think she clearly has strong  
18 feelings about gun ownership and the status of the laws, but  
19 she said repeatedly throughout all the questions from everyone  
20 she could be fair and impartial. She understood the role she  
21 had to fill, that she could follow the instructions. We're  
22 talking about a for cause challenge, there's nothing there that  
23 says that she's unduly biassed or prejudiced or has a set view  
24 in any kind of way that is going to prevent her from being a  
25 fair and impartial verdict.

1 MR. SINDLER: We ask people like her to come in and  
2 not set aside their common experiences and their routines in  
3 coming to a decision about whether somebody is guilty or not.  
4 This is something for which she has very strong views. I think  
5 despite your efforts to rehabilitate her --

6 THE COURT: I made no efforts to rehabilitate her.  
7 I made multiple efforts to make sure she would follow my  
8 instructions and her oath.

9 MR. SINDLER: I didn't mean to mischaracterize -- I  
10 don't want to restate or repeat myself.

11 THE COURT: I'm going to deny the motion for cause.  
12 You can use one of the peremptory challenges if you think  
13 that's appropriate. I think she can render a fair and  
14 impartial verdict. She impressed the Court as someone that  
15 would take her responsibilities as a juror not only seriously,  
16 but it appeared to the Court based on its observation of her  
17 demeanor solemnly. So, that will be an issue for counsel to  
18 assess when they use their peremptory strikes.

19 52 is in.

20 The next one will be 53, who answered yes to 18, 21,  
21 and 38.

22 (Juror No. 53 enters chambers.)

23 THE COURT: Counsel we have Juror 53 with us. He  
24 responded yes to three questions, 18, 21 and No. 38.

25 Sir, Question 18, just to remind you, asked whether

1 you or a member of your immediate family had ever been the  
2 victim of a crime and that caused a yes answer.

3 What was on your mind?

4 JUROR NO. 53: We had some items stolen out of our  
5 yard.

6 THE COURT: When you say "we"?

7 JUROR NO. 53: My father-in-law, I live with my  
8 father-in-law at his residence. I rent off of him. We came  
9 out one morning, it was more or less scrap, he collects scrap  
10 things like radiators, he seen a piece of scrap laying in the  
11 yard and he wondered why it was there and he went down to where  
12 he stored everything and it was gone.

13 THE COURT: Everything was gone or the piece of  
14 scrap he saw in the yard?

15 JUROR NO. 53: Everything that he had stocked.  
16 That's what caught his attention was the piece he stocked  
17 laying in the middle of the yard.

18 THE COURT: Did it appear someone was taking all  
19 that scrap and dropped that piece on the way out?

20 JUROR NO. 53: That's exactly what it looked like.

21 THE COURT: Is that the kind of scrap that someone  
22 might take to a scrap yard and get money?

23 JUROR NO. 53: Yes.

24 THE COURT: About how long ago was that?

25 JUROR NO. 53: I'd say two years.

1 THE COURT: Was there a police investigation?

2 JUROR NO. 53: Yes. He called the state police and  
3 they came out and did a report. That was the end of it, we  
4 never found out where it was.

5 THE COURT: Even though that was the end of it, was  
6 there any one people or persons that you or your father-in-law  
7 or others thought might have been suspects, they just were  
8 never charged or never brought into the legal system?

9 JUROR NO. 53: No. He just wanted to make sure he  
10 had the police report filed in case something else would  
11 happen, which never did.

12 THE COURT: Do you have any sense of what the  
13 approximate value of that scrap was?

14 JUROR NO. 53: Couple hundred dollars.

15 THE COURT: Any type of insurance claim or anything?

16 JUROR NO. 53: No.

17 THE COURT: Anything else that caused you to answer  
18 yes to that question?

19 JUROR NO. 53: No, sir.

20 THE COURT: Was there anything about that episode  
21 that you just described that you think could get in the way of  
22 you rendering a verdict, if chosen for the jury, based only on  
23 the evidence in our courtroom and the instructions I give?

24 JUROR NO. 53: Definitely not.

25 THE COURT: You'd be able to render such a verdict?

1 JUROR NO. 53: Yes.

2 THE COURT: Now, the next question you answered yes  
3 to was 21. It asked if you or anybody in your immediate family  
4 has been employed as a firefighter or has been affiliated with  
5 any fire department.

6 Tell us about that.

7 JUROR NO. 53: I was a volunteer.

8 THE COURT: Really. Where?

9 JUROR NO. 53: Connellsville Township in Fayette  
10 County. Right outside of Connellsville for approximately 12  
11 years, 12 to 13 years.

12 THE COURT: When did that come to an end?

13 JUROR NO. 53: When I moved to East Huntington. I  
14 moved there, I got married and moved to East Huntington and  
15 just moving into another township, it wouldn't be like fighting  
16 fire with the guys that I fought fires with for twelve years.  
17 Besides that, I was married, so I had to --

18 THE COURT: About how long ago did that all come to  
19 an end?

20 JUROR NO. 53: 25 years ago.

21 THE COURT: Did you and the fire company part ways  
22 on good terms with one another?

23 JUROR NO. 53: Yes, we did.

24 THE COURT: Then the last question you answered yes  
25 to was 38. It asked whether you or anybody in your family

1 owned or possessed a firearm or ammunition and, if so, what  
2 kind and for what purpose?

3 JUROR NO. 53: Well, I was working a security detail  
4 plainclothes retail and I used to have to escort the manager of  
5 the store to the bank. So I originally purchased a gun permit  
6 to carry a gun for that reason. My father-in-law, he is an  
7 avid marksman. He belongs to a gun club. He shoots  
8 recreationally every weekend. That's the only reason. Now I  
9 just have the gun for protection.

10 THE COURT: What kind of firearm do you have?

11 JUROR NO. 53: A 380 pistol. 380 semi-automatic  
12 pistol.

13 THE COURT: Do you still have your gun permit?

14 JUROR NO. 53: Yes, I do.

15 THE COURT: Have you ever had to use the gun or  
16 elect to use the gun for anything other than hunting or target  
17 practice?

18 JUROR NO. 53: No.

19 THE COURT: Did you ever unholster it as part of  
20 your security activities?

21 JUROR NO. 53: No.

22 THE COURT: For what period of time did you do this  
23 security work?

24 JUROR NO. 53: What period of time? I would say it  
25 went on for about five years probably 25 years ago. All my

1 activities sort of took place right before I got married or  
2 shortly thereafter. Then I just decided to lay low and behave  
3 myself.

4 THE COURT: When is the last time you fired that  
5 pistol, ballpark?

6 JUROR NO. 53: Two, three months ago.

7 THE COURT: Do you go to a range or sportsman's  
8 club?

9 JUROR NO. 53: I go with my father-in-law. They do  
10 an indoor range and they also have an outdoor range, so we just  
11 go recreationally.

12 THE COURT: What kind of firearms does your  
13 father-in-law have?

14 JUROR NO. 53: Too numerous to mention probably. He  
15 has long guns, pistols, 22s.

16 THE COURT: Do you know if he has a concealed carry  
17 permit?

18 JUROR NO. 53: Yes, he does.

19 THE COURT: Do you know if he's used his firearms  
20 for anything other than hunting or target practice?

21 JUROR NO. 53: No, he has not.

22 THE COURT: Mr. Sindler, any follow-up yeses, sir?

23 MR. SINDLER: No, I don't.

24 THE COURT: Mr. Ortiz and Ms. King?

25 MR. ORTIZ: The incident where stuff was stolen from

1 your father-in-law's property, the investigation that occurred,  
2 were you at all unhappy with the job the police did?

3 JUROR NO. 53: No, not at all. They come out, it  
4 was scrap, we pretty much just said, hey, it's lost scrap.  
5 They did report and then we never heard anything back. The  
6 officer told us right then, he goes, these things are hard to  
7 follow-up on because it could have went any number of places.  
8 So, we didn't -- really worry too concerned about it.

9 MR. ORTIZ: Thank you.

10 THE COURT: Mr. Sindler, any follow-up to that?

11 MR. SINDLER: No, Your Honor.

12 THE COURT: Juror 53, thanks for coming back.

13 (Juror No. 53 exits chambers.)

14 THE COURT: Mr. Ortiz and Ms. King, any cause issues  
15 with 53?

16 MS. KING: No, Your Honor.

17 THE COURT: Mr. Sindler?

18 MR. SINDLER: I don't.

19 THE COURT: No. 53 is in.

20 Next one up is 21. Two yes answers, Questions 12  
21 and 18.

22 (Juror No. 21 enters chambers.)

23 THE COURT: Counsel, we have juror 21 with us. She  
24 answered yes to two questions, No. 12 and No. 18.

25 No. 12 asked, ma'am, if you have ever served as a



1 juror in criminal or civil case or as part of grand jury or any  
2 court?

3 JUROR NO. 21: It was a civil case. It was 20 years  
4 ago, probably.

5 THE COURT: Was it in county court or federal court?

6 JUROR NO. 21: It must county court.

7 THE COURT: What town was it?

8 JUROR NO. 21: In Pittsburgh.

9 THE COURT: Right here in town?

10 JUROR NO. 21: Yes.

11 THE COURT: Were you actually selected to be on the  
12 jury?

13 JUROR NO. 21: I was. I was the foreperson.

14 THE COURT: Did it go to trial?

15 JUROR NO. 21: It did.

16 THE COURT: Did it go all the way to a verdict where  
17 the jury had to make a decision?

18 JUROR NO. 21: We did.

19 THE COURT: It was a civil case?

20 JUROR NO. 21: Yes.

21 THE COURT: Can you generally describe what kind of  
22 case it was?

23 JUROR NO. 21: It was -- we were trying to decide  
24 damages. I think it was an insurance case. I can't remember.  
25 I can't remember the details of it. I just remember we had to

1 put a value on some misdeed.

2 THE COURT: A money value?

3 JUROR NO. 21: Yes.

4 THE COURT: Was there anything about that service in  
5 any way, shape or form that left you with a bad taste in your  
6 mouth about jury service or jury system, the court system,  
7 lawyers, judges, bailiffs?

8 JUROR NO. 21: No.

9 THE COURT: No negatives?

10 JUROR NO. 21: No, it was not negative at all, not a  
11 negative experience at all.

12 THE COURT: And then you answered yes to No. 18,  
13 which asked whether you or anybody in your immediate family had  
14 ever been the victim of a crime?

15 JUROR NO. 21: Yes, I was. I was -- our house was  
16 robbed when I was in our home when I was 16. I was held at  
17 gunpoint and robbed.

18 THE COURT: Was that here in the Western  
19 Pennsylvania area?

20 JUROR NO. 21: No, it was in Akron, Ohio.

21 THE COURT: Did the police come out and investigate  
22 that?

23 JUROR NO. 21: They did.

24 THE COURT: Did the police or the authorities in the  
25 Akron area institute a prosecution over that crime?

1 JUROR NO. 21: No one was ever charged with the  
2 crime.

3 THE COURT: Were you able to identify to law  
4 enforcement or the prosecuting authorities anybody you thought  
5 was a suspect in that crime?

6 JUROR NO. 21: I described -- I only saw the person  
7 very, very briefly. I described him, we went through a sketch  
8 artist and I looked at photographs in a book. There was very  
9 little action that happened after that. I filed the case or  
10 whatever, took a statement. I believe the police probably came  
11 out after that, but there was no real progression. I don't  
12 think they ever found anything.

13 THE COURT: Did anything about that either go to any  
14 kind of court?

15 JUROR NO. 21: No.

16 THE COURT: Even the police and enforcement issues  
17 didn't charge anyone, did you have a belief as to who the  
18 person was that committed that crime?

19 JUROR NO. 21: No.

20 THE COURT: Were you alone in the home when that  
21 happened?

22 JUROR NO. 21: I was.

23 THE COURT: About how long in time duration would  
24 you say that episode was? How long --

25 JUROR NO. 21: It's hard to say. It felt like it

1 took forever. 10, 15 minutes maybe.

2 THE COURT: During that episode, in addition to the  
3 action that was happening in front of you, was there anything  
4 said to you by that perpetrator?

5 JUROR NO. 21: Yes.

6 THE COURT: Can you tell us what that was, as best  
7 you recall?

8 JUROR NO. 21: Yes, I can. I recall it very well.  
9 I was in bed at the time. He woke me up. I saw he had a gun.  
10 He made me stand in front of him, asked me for a bag or pillow  
11 case to put things in. We went through our home as he put  
12 things in the pillow case. He told me to get -- he told me  
13 that he was robbing the house because he didn't have anything.  
14 We were wealthy. And had me get back into bed and pull the  
15 sheet up over my head. I can tell you more. Do I need to tell  
16 you more?

17 It was emotional.

18 THE COURT: It appears you have a clear memory of it  
19 to today.

20 JUROR NO. 21: Yes.

21 THE COURT: Without verbatim, is there anything that  
22 was said that you viewed as a threat to your safety?

23 JUROR NO. 21: Yes. I thought he was going to rape  
24 me.

25 THE COURT: Were there any other episodes or

1 incidents that caused you to answer yes to No. 18, or was this  
2 what was on your mind that caused you to answer?

3 JUROR NO. 21: I have not been a victim of any other  
4 crime.

5 THE COURT: Nor has anybody in your immediate  
6 family?

7 JUROR NO. 21: No.

8 THE COURT: Now, looking at that -- I don't -- I'm  
9 always very cautious when I ask people to disclose things about  
10 might disclose their age, but about how long ago the that  
11 happen?

12 JUROR NO. 21: I was 16. I'm 52 now.

13 THE COURT: It would have been 36 years ago?

14 JUROR NO. 21: Indicates yes.

15 THE COURT: Once the jury is selected in this case,  
16 the 12 people that will be seated on the jury and the two  
17 alternates, once they're seated in the jury box, Mr. Babik is  
18 going to administer an oath to them. By that oath, all those  
19 jurors are going to swear or affirm in open court that they're  
20 going to render a verdict based only on the evidence that they  
21 hear in our courtroom in this case and the instructions I give  
22 as the judge.

23 Do you have any reason to believe at all, for any  
24 reason, that you're not going to be able to follow that oath if  
25 you're selected?

1 JUROR NO. 21: I don't think I'll have any trouble  
2 with that.

3 THE COURT: You said you wouldn't think. I know  
4 people are very careful with their language.

5 JUROR NO. 21: I would not have any trouble with  
6 that.

7 THE COURT: Are you going to be -- you heard this  
8 morning when we talked, I talked to all the juror, everybody  
9 that was in the courtroom that one of the things that was very  
10 important in this case, like it would be in any criminal case,  
11 is that the government and any defendant, this defendant, has  
12 every right to have their case decided based only on the  
13 evidence in the courtroom and the instructions I give.

14 Is there anything about that episode in Akron or  
15 anything else in your life or anything else that you think that  
16 would get in your way of delivering to all the parties to this  
17 case a fair and just verdict based only on the evidence and the  
18 instructions I give.

19 JUROR NO. 21: No, there wouldn't be anything that  
20 would prevent me from listening to the evidence and responding  
21 to it. That's not exactly your wording, I don't remember  
22 exactly how you put it, but I would not have any trouble with.

23 THE COURT: If you were selected to the jury and it  
24 came time to deliberate, you would base your verdict based only  
25 on the evidence you hear in this case and the instructions I

1 give?

2 JUROR NO. 21: That's correct.

3 THE COURT: Mr. Ortiz and Ms. King, any follow-up  
4 for this juror?

5 MR. ORTIZ: I do not.

6 MS. KING: I have one question. You said your  
7 husband is an architect?

8 JUROR NO. 21: Yes.

9 THE COURT: Can you describe a little bit of the  
10 type of work he does?

11 JUROR NO. 21: He does mostly residential and mostly  
12 historic houses that are being renovated.

13 THE COURT: Does he talk to you a lot about the kind  
14 of work that he does, do you have any understanding about how  
15 he goes about doing his job?

16 JUROR NO. 21: I do.

17 MS. KING: Nothing else.

18 THE COURT: Have you ever worked with your husband  
19 in his architectural practice, or helped him out, even if it  
20 wasn't official?

21 JUROR NO. 21: Only to give him my opinion of what I  
22 thought of a situation if he was having trouble with a client  
23 or a contractor or something like that.

24 THE COURT: Did you ever go with him to see any of  
25 the work sites, the engagements he was going to be working on,

1 or someone might be thinking of hiring him about?

2 JUROR NO. 21: Yes.

3 THE COURT: Do you look around when he looks around?

4 JUROR NO. 21: Yes.

5 THE COURT: When he asked for your opinion on  
6 things, is that because he in conversations describes things to  
7 you or does he show you things that clients have given him or  
8 that he's going to give to a client?

9 JUROR NO. 21: Yes.

10 THE COURT: Both of those?

11 JUROR NO. 21: Yes. I see his work as it's  
12 progressing. I see what kinds of things his clients show him  
13 that they like or don't like.

14 THE COURT: Do you know whether as part of his  
15 business he uses vendors for the various services he might need  
16 help with?

17 JUROR NO. 21: Contractors, definitely.

18 THE COURT: Is he in a, for want of a better term, a  
19 sole practice, or does he have other professionals --

20 JUROR NO. 21: Sole practitioner.

21 THE COURT: Does he work out of your home?

22 JUROR NO. 21: He hasn't for many, many years.

23 THE COURT: He has an office?

24 JUROR NO. 21: Yes.

25 THE COURT: Mr. Sindler, any follow-up?



1 MR. SINDLER: Looking back 36 years ago, do you know  
2 the race of the individual who was in the home in which you  
3 were sleeping?

4 JUROR NO. 21: Yes. He was African-American.

5 MR. SINDLER: That's all I have.

6 THE COURT: Thank you, Mr. Sindler.

7 Any follow-up, Mr. Ortiz and Ms. King?

8 MS. KING: No, Your Honor.

9 THE COURT: Anything else, Mr. Sindler?

10 MR. SINDLER: Not at this moment.

11 THE COURT: Thank you, ma'am, for coming in.

12 (Juror No. 21 exits chambers.)

13 THE COURT: Mr. Sindler.

14 MR. SINDLER: I kind of wanted to ask but I didn't  
15 want to start going over boundaries here. Maybe we should ask  
16 her if she knows about this firm that we've used, Cadnetics.

17 THE COURT: That was not -- when I read  
18 Mr. Johnson's name, I did not say the name of his firm. I  
19 think that's a fair inquiry.

20 MR. SINDLER: You can do it, I can do it.

21 THE COURT: No, no, I'll be happy to ask it.

22 Any objection if I ask that, Ms. King and Mr. Ortiz?

23 MS. KING: No, Your Honor.

24 THE COURT: Mr. Greer, would you ask her to come  
25 back, Juror 21 for further follow-up.

1 THE COURT: Does anyone have an objection if I  
2 describe the type of work they generally do and ask if husband  
3 uses them. If she hasn't heard of Cadnetics, if they use a  
4 vendor of a similar type?

5 MS. KING: No.

6 THE COURT: Is that okay with you, Mr. Sindler?

7 MR. SINDLER: That's fine.

8 (Juror No. 21 enters chambers.)

9 THE COURT: I had a follow-up question I needed to  
10 clear with counsel. It relates to your husband's architectural  
11 firm.

12 One of the witnesses in this case is affiliated with  
13 an organization called Cadnetics. Have you ever heard of that?

14 JUROR NO. 21: No.

15 THE COURT: They do surveying and measurements of  
16 buildings. They use traditional mechanisms. They also use  
17 laser surveying equipment, that sort of stuff. Have you ever  
18 heard of that outfit?

19 JUROR NO. 21: I know what the equipment is. I have  
20 never heard of that particular firm.

21 THE COURT: Does your husband's architectural  
22 practice engage folks, consultants, contractors that do that  
23 type of work?

24 JUROR NO. 21: No.

25 THE COURT: How are you familiar with that

1 equipment?

2 JUROR NO. 21: He had to learn how to use --

3 THE COURT: He being your husband?

4 JUROR NO. 21: Yes. Which was -- a concern as we  
5 were getting older, having to learn new software and it was  
6 just something he was going to have to learn in order to be  
7 able to send drawings to clients in the city, things like that.  
8 He does it himself. He has not used an outside consultant that  
9 I know of and I have never heard of.

10 THE COURT: Do you do any of it?

11 JUROR NO. 21: No, I don't.

12 THE COURT: Has your husband ever shared with you  
13 the product of his efforts in suing CAD, which I believe stands  
14 for computer assisted design or computer assisted drawing.

15 JUROR NO. 21: I've seen it on the computer. My son  
16 knows also how to use the CAD system, but I've never seen the  
17 output.

18 THE COURT: Has your son ever showed you how it  
19 works or your husband ever showed you how it works or operates?

20 JUROR NO. 21: Yes.

21 THE COURT: Do you have an understanding of what it  
22 does or what it is intended to do?

23 JUROR NO. 21: Yes, I do.

24 THE COURT: Could you give us your understanding.

25 JUROR NO. 21: What a CAD drawing does?

1 THE COURT: Sure.

2 JUROR NO. 21: So a three-dimensional rendering of a  
3 two-dimensional -- what would you have drawn as a blueprint in  
4 two dimensions on a drawing board, you do in three dimensions  
5 in CAD software. It gives you a digital file, which means you  
6 can e-mail it, save it to a PDF, output it to a hard copy, if  
7 that's how your clients wants to see it. You can manipulate to  
8 see it in different views. That's what I know about it.

9 THE COURT: Have you ever used it yourself?

10 JUROR NO. 21: No.

11 THE COURT: Have you ever taken a lesson, even if it  
12 was from your husband or your son, formal lesson of any type?

13 JUROR NO. 21: No.

14 THE COURT: Mr. Sindler, any follow-up?

15 MR. SINDLER: No.

16 THE COURT: Mr. Ortiz and Ms. King, any follow-up?

17 MR. ORTIZ: Ma'am, just briefly. Clearly you've had  
18 a number of conversations with your husband and your son about  
19 these similar programs. If a witness were to come and testify  
20 at court about something similar, would you still feel as  
21 though you could evaluate the witness' testimony for what it is  
22 as it is coming to you as a juror.

23 JUROR NO. 21: You mean without sort of a  
24 preconceived understanding?

25 MR. ORTIZ: Yes.

1 JUROR NO. 21: Yes, I think so.

2 MR. ORTIZ: So whatever you were told from your  
3 husband, you could essentially put that aside and view it in  
4 the context of the trial or from an instruction from the Court  
5 or something to that effect?

6 JUROR NO. 21: Yes, I think so.

7 THE COURT: Ma'am, I'm the Judge, I'll be telling  
8 the jury over and over again from the moment they're sworn in  
9 until the trial is over, when they're not in the courtroom,  
10 they are not allowed to talk about the case, anybody that  
11 involved with in it, they can't talk to the jurors, can't talk  
12 to themselves, they can't do any research, just like I said  
13 this morning, they can't learn about anything from the books or  
14 newspapers and they can't talk to anyone away from the  
15 courthouse. Given that your husband is an architect, if  
16 there's discussion of CAD in the courtroom, are you going to be  
17 able to follow that instruction?

18 JUROR NO. 21: Yes, I'll be able to follow that  
19 instruction.

20 THE COURT: You wouldn't talk to anybody until after  
21 the trial is over and I tell the jury they're allowed to talk  
22 to other people.

23 JUROR NO. 21: Correct.

24 THE COURT: Mr. Sindler, any follow-up?

25 MR. SINDLER: No.

1 THE COURT: Ms. King and Mr. Ortiz?

2 MS. KING: No.

3 (Juror No. 21 exits chambers.)

4 THE COURT: Mr. Sindler, anything on cause with 21?

5 MR. SINDLER: No.

6 THE COURT: Mr. Ortiz and Ms. King?

7 MS. KING: No.

8 THE COURT: 21 is in the pool.

9 Mr. Warren, do you need a drink?

10 THE DEFENDANT: No, sir, no, Your Honor.

11 THE COURT: Next one up is 41. That juror had a yes  
12 answer and that was No. 12.

13 (Juror No. 41 enters chambers.)

14 THE COURT: Counsel, we have Juror 41 with us. She  
15 had a yes answer to one question, which was No. 12. That was  
16 have you ever served as a juror in a criminal or civil case or  
17 as part of a grand jury in federal, state or county court.

18 Tell us about that.

19 JUROR NO. 41: County court.

20 THE COURT: Here in Pittsburgh?

21 JUROR NO. 41: No, Lawrence County. Does that count  
22 for a yes?

23 THE COURT: Yes. That's New Castle.

24 JUROR NO. 41: Yes. It was assault with a deadly  
25 weapon. We went five days for the trial and deliberations.

1 THE COURT: So you were actually selected for the  
2 jury.

3 JUROR NO. 41: Yes.

4 THE COURT: The case proceeded. Did the jury  
5 deliberate and render a verdict?

6 JUROR NO. 41: Yes.

7 THE COURT: Were you the foreperson of the jury?

8 JUROR NO. 41: No.

9 THE COURT: About how long ago was this?

10 JUROR NO. 41: I have been called three times;  
11 probably about six years ago.

12 THE COURT: How long did the trial part in the  
13 courtroom take and about how long did the deliberations take?

14 JUROR NO. 41: Trial three days, deliberations one  
15 whole day.

16 THE COURT: Did the deliberations begin and end on  
17 the same day?

18 JUROR NO. 41: Yes.

19 THE COURT: Or did it carry over from one day to the  
20 other?

21 JUROR NO. 41: No, we came back early in the  
22 morning, they finished and we were in there all day until five  
23 or six o'clock. It was a Friday.

24 THE COURT: Now let me ask you this. Was there  
25 anything at all about that, any jury service you've had, that

1 jury service you have said you were -- is that the only time  
2 you were selected?

3 JUROR NO. 41: Only time I was selected.

4 THE COURT: Is there anything at all about that  
5 experience that you found unfavorable, unpleasant relative to  
6 you being on the jury or jury system as a whole or legal  
7 system, lawyers, judges, bailiffs, anything negative at all  
8 about it?

9 JUROR NO. 41: No.

10 THE COURT: Is there anything about that service  
11 that you think would influence or affect your deliberation or  
12 verdict in this case, if you were selected?

13 JUROR NO. 41: No. I don't think so.

14 THE COURT: When I instruct the jury as seated that  
15 they're going to have to render their verdict solely on the  
16 evidence in our courtroom in this case and on the instructions  
17 I give, is there anything you think is going to get in the way  
18 of you following that instruction?

19 JUROR NO. 41: No, sir.

20 THE COURT: You'd be able to do that?

21 JUROR NO. 41: Uh-huh.

22 THE COURT: Mr. Ortiz and Ms. King, any follow-up  
23 for this juror?

24 MS. KING: You said you reached a verdict in that  
25 case, what was the verdict?



1 JUROR NO. 41: Guilty.

2 MS. KING: Nothing further.

3 THE COURT: Mr. Sindler, any follow-up?

4 MR. SINDLER: Did the deliberations stand out during  
5 the day you folks were doing it, anything about that stand out?

6 JUROR NO. 41: They asked to see some evidence  
7 again. I don't recall what it was, but we did call and they  
8 asked for something, they came, but once we decided to vote, it  
9 was unanimous. There was talk before the voting.

10 MR. SINDLER: During that day?

11 JUROR NO. 41: Yes, in the room.

12 MR. SINDLER: There were no deliberations before  
13 that day?

14 JUROR NO. 41: No. We had to come back Friday  
15 morning and finish the trial and within an hour we were sent to  
16 deliberate.

17 MR. SINDLER: That's all I have.

18 THE COURT: Ms. King, Mr. Ortiz, any follow-up to  
19 those questions?

20 MS. KING: No.

21 MR. ORTIZ: No.

22 (Juror No. 41 exits chambers.)

23 THE COURT: Mr. Ortiz, Ms. King, any cause issues  
24 with Juror 41?

25 MS. KING: No.

1 MR. ORTIZ: No.

2 THE COURT: Mr. Sindler?

3 MR. SINDLER: No.

4 THE COURT: 41 is in.

5 That brings us to No. 10. She had four yes answers  
6 11, 18, 21 and 38.

7 (Juror No. 10 enters chambers.)

8 THE COURT: Counsel, we have Juror No. 10 with us.  
9 She answered yes to four questions.

10 The first of those is No. 11. It says: Is there  
11 any matter pending in your life about which you're concerned  
12 that would prevent you from devoting your full, undivided  
13 attention to this trial. You have answered yes.

14 What was on your mind, ma'am?

15 JUROR NO. 10: On Friday, my mom had half of her  
16 lung removed.

17 THE COURT: This past Friday?

18 JUROR NO. 10: Yes, cancer. Everything is good so  
19 far, but I'm expecting FMLA papers in the mail in case  
20 something with her condition changes or whatever, so that's  
21 basically it. I just figured I might as well let you guys know  
22 that in case something happens.

23 THE COURT: Is she still in the hospital?

24 JUROR NO. 10: Yes, she's at AGH.

25 THE COURT: Do you have any sense, rough idea of

1 when they expect to let her out of the hospital?

2 JUROR NO. 10: Not yet. I'm going to see her after  
3 I leave here today. So, hopefully, I'll find out some  
4 information.

5 THE COURT: Let me ask you this, when she does get  
6 out of the hospital, where is she going to go?

7 JUROR NO. 10: She's going to be staying with me.

8 THE COURT: With you.

9 JUROR NO. 10: Yes.

10 THE COURT: Does anybody else live with you?

11 JUROR NO. 10: My father. But he also has a  
12 business to run, too, so that's why I'm getting the FMLA papers  
13 sent in the mail just in case, if someone can't be there with  
14 her and she needs someone there, I'm not sure yet, but I will  
15 find out today. She might be getting chemo just to make sure  
16 that it's all gone, but I'm not 100 percent sure about that  
17 yet. She just got out of ICU yesterday and they moved her to  
18 the fifth floor.

19 THE COURT: Do you think if she does get chemo, that  
20 would cause her to be in the hospital longer?

21 JUROR NO. 10: I don't know.

22 THE COURT: Let me ask you this. Before your mom  
23 went into the hospital, did you, your dad and your mom, do you  
24 all live in the same house?

25 JUROR NO. 10: Yes.

1 THE COURT: What line of work is your dad in?

2 JUROR NO. 10: He's a business owner.

3 THE COURT: What kind of business?

4 JUROR NO. 10: He owns a tavern.

5 THE COURT: So he works there himself at the tavern?

6 JUROR NO. 10: Well, he runs it, he don't bartend,  
7 per se, but dealing with like inventory, running here, running  
8 there gets tough.

9 THE COURT: He goes and works at the tavern and he  
10 has other folks that work there, too, to help him out?

11 JUROR NO. 10: Yes.

12 THE COURT: I'm not minimizing that, ma'am. Was  
13 there anything else that was on your mind when you answered yes  
14 to this question?

15 JUROR NO. 10: No.

16 THE COURT: Now, let me ask you this. If you hadn't  
17 been called for jury duty, what was the plan of how you would  
18 be involved with your mom when she got out of the hospital?

19 JUROR NO. 10:

20 THE COURT: What was going to be happening?

21 JUROR NO. 10: Just be there for her when I can, in  
22 case she need me.

23 THE COURT: Were you going to be taking time off  
24 work?

25 JUROR NO. 10: That's why I'm waiting for the FMLA

1 papers to come through the mail in case I need to, you know  
2 what I mean.

3 THE COURT: So if you turn those in, are you  
4 thinking that would lead to you getting time off work? That  
5 would be your plan?

6 JUROR NO. 10: Possibly, but I'm not saying it's  
7 going to be like months, it might be like a day here, a day  
8 there.

9 THE COURT: As needed.

10 JUROR NO. 10: Yes. Right.

11 THE COURT: Could you remind me what line of work  
12 you're in?

13 JUROR NO. 10: I work up at the BNY client center  
14 right up on Ross. I'm a data entry operator.

15 THE COURT: Do you work a standard shift?

16 JUROR NO. 10: I work twilight.

17 THE COURT: What does that mean?

18 JUROR NO. 10: Two to ten. It's really three to  
19 eleven but I'm two to ten.

20 THE COURT: Two in the afternoon until ten in the  
21 evening?

22 JUROR NO. 10: Yes.

23 THE COURT: Thank you.

24 Now the next question you answered yes to was  
25 No. 18. It says: Have you or a member of your immediate

1 family ever been a victim of a crime? You answered yes.

2 What was that about?

3 JUROR NO. 10: I was jumped when I was younger.

4 THE COURT: About how old were you?

5 JUROR NO. 10: 15.

6 THE COURT: Was it near your home?

7 JUROR NO. 10: Yeah, a couple blocks.

8 THE COURT: Was there any police involvement in  
9 looking into that?

10 JUROR NO. 10: Yes.

11 THE COURT: You called the police or somebody called  
12 them for you?

13 JUROR NO. 10: Yes, somebody else did.

14 THE COURT: Did they ever apprehend anybody or take  
15 anybody into the police system?

16 JUROR NO. 10: I am 34, I can't remember that far.

17 THE COURT: Do you know if there was anything  
18 involved in any court system with any of that episode?

19 JUROR NO. 10: No, I don't think so.

20 THE COURT: Were you injured?

21 JUROR NO. 10: I called my uncle and let him know  
22 after the fact that it happened because it happened in the  
23 middle of the night. No, not badly, just banged up and bruised  
24 up. I consider that a crime.

25 THE COURT: Sure. Now, was there one person

1 involved in this situation besides you, one person that jumped  
2 you, to use your term?

3 JUROR NO. 10: Multiple people.

4 THE COURT: Multiple people.

5 JUROR NO. 10: Yes, that's what jump is, when it is  
6 more than one person.

7 THE COURT: Do you remember about how many?

8 JUROR NO. 10: Three.

9 THE COURT: Were there any weapons involved.

10 JUROR NO. 10: Huh-uh.

11 THE COURT: You even though the police didn't catch  
12 anybody, did you have anybody you suspected might have been  
13 involved in jumping you? Any idea who it might have been?

14 JUROR NO. 10: Yeah, I know who it was.

15 THE COURT: Did you tell the police who you thought  
16 it was?

17 JUROR NO. 10: I gave my uncle some names and he  
18 checked into it. But it was so long ago.

19 I'm going on like three hours of sleep, so you're  
20 going to have to excuse me. I worked last night.

21 THE COURT: Do you call your uncle because you were  
22 particularly close to him or did he have something to do with  
23 law enforcement?

24 JUROR NO. 10: He's a cop.

25 THE COURT: What town was he a policeman in?

1 JUROR NO. 10: He lived in Green Tree, but I want to  
2 say Allegheny County.

3 THE COURT: Is he still do that?

4 JUROR NO. 10: Uh-huh.

5 THE COURT: So he's currently a policeman?

6 JUROR NO. 10: Yes. But I think he's -- he just got  
7 promoted to where he's going to be in the court just like a  
8 court officer or whatever. I don't know what it's called but  
9 I'm not sure where.

10 THE COURT: You gave the names of the people that  
11 you thought were involved in this situation to your uncle.

12 Did I understand that right?

13 JUROR NO. 10: Yeah.

14 THE COURT: Did that lead to anybody being  
15 questioned or brought in to talk to the police?

16 JUROR NO. 10: Huh-uh.

17 THE COURT: How did you feel about that?

18 JUROR NO. 10: I was young. I don't know.

19 THE COURT: Are these people you had known before  
20 this situation?

21 JUROR NO. 10: To see around the neighborhood, but  
22 not like friends or anything.

23 THE COURT: What neighborhood did this happen in?

24 JUROR NO. 10: Spring Garden on the North Side.

25 THE COURT: On the North Side?



1 JUROR NO. 10: Yeah.

2 THE COURT: Now, the next question you answered yes  
3 to was No. 21. I asked you if you or anybody in your immediate  
4 family had ever been a firefighter or affiliated with any fire  
5 department or yes.

6 JUROR NO. 10: My grandfather. He's deceased now  
7 but he was a chief firefighter at the Spring Garden Fire  
8 Station.

9 THE COURT: In the city fire department?

10 JUROR NO. 10: Yes.

11 THE COURT: That's the neighborhood you grew up in?

12 JUROR NO. 10: I grew up in Spring Hill, but it's a  
13 neighborhood over, yes.

14 THE COURT: About how long ago did your grandfather  
15 pass away?

16 JUROR NO. 10: At the time I lived in South  
17 Carolina, we moved back two weeks after 9/11, so, the year  
18 before 9/11.

19 THE COURT: How long was he a firefighter?

20 JUROR NO. 10: I don't know because he retired when  
21 I was young.

22 THE COURT: Lastly, you answered yes to No. 38 which  
23 asked if anybody in your family owns or possesses a firearm or  
24 ammunition.

25 JUROR NO. 10: My brother for hunting.

1 THE COURT: Does your brother live with you?

2 JUROR NO. 10: No.

3 THE COURT: Does he live around here?

4 JUROR NO. 10: Saxonburg, PA.

5 THE COURT: Is it a rifle or handgun?

6 JUROR NO. 10: I'm not sure. I just know he hunts.

7 THE COURT: Do you know if he has concealed carry  
8 permit of any type?

9 JUROR NO. 10: I'm sure he does. I don't know. I  
10 just know he has deer head all over his game room.

11 THE COURT: It's your brother, did your brother ever  
12 use his hunting gun for anything other than hunting or for  
13 target practice?

14 JUROR NO. 10: Huh-uh.

15 THE COURT: Mr. Sindler, any follow-up?

16 MR. SINDLER: You work at twilight shift, can I ask,  
17 are your sleep patterns different from the person, like myself,  
18 who is up during the day?

19 JUROR NO. 10: It was very hard for me to get up  
20 today. I didn't get home from work until like almost midnight  
21 last night and then I can't come home and go straight to sleep,  
22 I'm on like the opposite schedule.

23 MR. SINDLER: How might that affect your work if you  
24 have to be in court at nine o'clock for a few days in a row as  
25 you had to be here today?

1 JUROR NO. 10: They said as long as you guys give me  
2 the -- they don't have a problem with me having off for jury  
3 duty, if that's what you're asking.

4 MR. SINDLER: How do you feel about having to be  
5 here at nine o'clock for a few days in a row, will you be able  
6 to pay attention and focus?

7 JUROR NO. 10: I can't promise that.

8 THE COURT: Why is that? Because you're altering  
9 your sleep schedule?

10 JUROR NO. 10: Yes.

11 MR. SINDLER: One second.

12 THE COURT: No problem.

13 MR. SINDLER: The lung surgery that your mom just  
14 went through, were you planning on taking time off this week  
15 from work in order to visit her?

16 JUROR NO. 10: As of right now, everything is going  
17 good. But like I said, that's why I have the FMLA papers being  
18 sent to me. I opened up a claim in case something happens,  
19 then I can take time off work and it won't be held against me.

20 MR. SINDLER: This is in the back of your mind or in  
21 the forefront of your mind, what is happening with your mom?

22 JUROR NO. 10: Yes. She had her surgery on Friday.  
23 She just got out of ICU last night.

24 MR. SINDLER: It's occupying some of your time or a  
25 lot of the time during the day, while you're awake, given her

1 condition and your wanting her to get better, right?

2 JUROR NO. 10: Yes.

3 MR. SINDLER: That's all I have.

4 THE COURT: Ms. King and Mr. Ortiz?

5 MS. KING: The judge is going to instruct you that  
6 you have to listen to all the evidence and carefully consider  
7 it, if you're to be selected and go back into the jury room.

8 Do you think you would have a problem doing that?

9 JUROR NO. 10: Yes.

10 MS. KING: Could just you explain a little bit why  
11 that is.

12 JUROR NO. 10: (Indicates no.)

13 THE COURT: May I ask a follow-up?

14 MS. KING: Yes.

15 THE COURT: Ma'am, your concern that you might have  
16 difficulty doing that, does that have anything to do with the  
17 facts of the case as I explained them in court or any of the  
18 people that are involved in the case because you recall I  
19 introduced all of them to the jury in court today, does your  
20 reason have anything to do with any of that?

21 JUROR NO. 10: (Indicates no.)

22 THE COURT: Is that a no, ma'am?

23 JUROR NO. 10: No.

24 THE COURT: Does it have anything to do with the  
25 situation when you were 15 or 16 years old?

1 JUROR NO. 10: No.

2 THE COURT: Let me ask you this, ma'am. Certainly  
3 from the situation we see right now, this is something very  
4 serious to you; is that correct?

5 JUROR NO. 10: Yes.

6 THE COURT: Ms. King, would you like any follow-up?

7 MS. KING: No, Your Honor.

8 THE COURT: Mr. Ortiz?

9 MR. ORTIZ: No.

10 THE COURT: Mr. Sindler?

11 MR. SINDLER: We're good.

12 THE COURT: Thank you very much.

13 (Juror No. 10 exits chambers.)

14 THE COURT: Ms. King or Mr. Ortiz, any cause issues  
15 with Juror No. 10?

16 MR. ORTIZ: Judge, I think her answers were, at  
17 least what I heard, it sounded as though she wouldn't be able  
18 to accurately view or appropriately view the evidence and  
19 devote her time and attention to this, so I would say yes, she  
20 should be struck for cause?

21 THE COURT: Mr. Sindler?

22 MR. SINDLER: I agree.

23 THE COURT: I think so, too. I think in particular  
24 her emotional reaction, which involved her welling up and  
25 becoming tearful when she was asked Ms. King's question,

1 there's obviously something very deeply seeded with her that  
2 appears to the Court to cause two things; one, to say to all of  
3 us that she had doubts about her ability to render a fair  
4 verdict based only on the evidence presented at this trial and  
5 the Court's instructions, and also made her -- made it  
6 impossible for her to articulate that.

7 I'm going to strike her for cause.

8 That brings us to 48 who answered yes to one  
9 question which was No. 17.

10 (Juror No. 48 enters chambers.)

11 THE COURT: Counsel, we have Juror No. 48 with us.  
12 He answered yes to one question. That was Question 17. It  
13 asked whether he or anyone in his immediate family had ever  
14 been arrested, charged with or convicted of a criminal offense.  
15 You said yes, sir.

16 What was on your mind?

17 JUROR NO. 48: My one son has been troubled with  
18 drugs all his life, so he's been arrested. He's been in the  
19 county for a year.

20 THE COURT: Are you saying the county for the county  
21 jail?

22 JUROR NO. 48: Yes. So he has like 14 months. So I  
23 have been to hearings down at the courthouse, but it's never a  
24 jury hearing, it's just -- they're trying to make a plea, you  
25 know, and that's what they did.

1 THE COURT: How recently has your son been in either  
2 county jail or any jail or had some involvement with the court  
3 system.

4 JUROR NO. 48: I think the 5th of this month we were  
5 down, October 5th we were down and the hearing got postponed  
6 until December 10th.

7 THE COURT: How old is this son?

8 JUROR NO. 48: 35.

9 THE COURT: Does he live here in the Allegheny  
10 County area?

11 JUROR NO. 48: Yes.

12 THE COURT: Do you know if he has a lawyer or uses a  
13 lawyer.

14 JUROR NO. 48: He has public defender.

15 THE COURT: From the county public defender?

16 JUROR NO. 48: Right.

17 THE COURT: Does he live with you?

18 JUROR NO. 48: Occasionally, until I get home and I  
19 throw him out. So he spends time -- it's just trouble is all  
20 it is.

21 THE COURT: Who else resides in your home with you?

22 JUROR NO. 48: My wife and one of my sons, one of my  
23 twin boys.

24 THE COURT: Your twins are how old?

25 JUROR NO. 48: 31.

1 THE COURT: So the son you described earlier, he  
2 would be your oldest child?

3 JUROR NO. 48: Yes.

4 THE COURT: Does he have any type of employment?

5 JUROR NO. 48: No. Sometimes he works for me, after  
6 he gets cleaned up, it's construction and I'll put him to work  
7 in construction until he screws up.

8 THE COURT: Has any of that experience that you've  
9 described here today, sir, given you any points of view in any  
10 direction about our legal system, our court system, our jury  
11 system, lawyers that are involved in it either for the  
12 prosecution or the defense of those cases, anything about it?

13 JUROR NO. 48: I kind of feel sorry for the courts  
14 for the drug addicts that come in there because all they got is  
15 excuses, it's one after another and after another. The two  
16 times he was -- one time they were too lenient, I thought, I  
17 thought the courts were too lenient on him, then the other time  
18 I thought they bombed him, they threw him in jail for 14  
19 months.

20 THE COURT: Is there anything about the situations  
21 involving that son that it was alleged or accused that involved  
22 any type of violence?

23 JUROR NO. 48: Yes. He robbed a drugstore -- he  
24 robbed a Rite-Aid with a big fishing knife, he went and grabbed  
25 pills off the shelf and ran out.



1 THE COURT: Did he do that while other employees or  
2 other customers were present in the store or after hours?

3 JUROR NO. 48: No, it was while customers were in  
4 the store.

5 THE COURT: About how long ago the that happen?

6 JUROR NO. 48: That was probably about six or seven  
7 years ago.

8 THE COURT: I don't mean to pry, I'm just trying to  
9 get a complete picture here, sir. I appreciate with your  
10 bearing with the Court.

11 In any of these situations, did you or your family  
12 provide funds for a lawyer for his defense?

13 JUROR NO. 48: Yes.

14 THE COURT: In any of these situations, did you or  
15 your family provide any funds for treatment or therapy or  
16 anything like that?

17 JUROR NO. 48: Yes.

18 THE COURT: What is this son's current situation?  
19 Is he in jail or not in jail?

20 JUROR NO. 48: He's not in jail, but he has this  
21 hearing coming up on December 10th. I don't know, he was on  
22 the news, him and his girlfriend were scamming that doctor, I  
23 don't know if you remember that, that was six months ago.  
24 That's what they're waiting for now. I'm sure they're going to  
25 be going to jail.

1 THE COURT: Is your son, to your knowledge,  
2 currently, if you will, clean?

3 JUROR NO. 48: He says he's clean, yes.

4 THE COURT: What does he residing now with you?

5 JUROR NO. 48: He is in Dormont.

6 THE COURT: Mr. Ortiz and Ms. King, any follow-up  
7 for Juror No. 48?

8 MS. KING: No, Your Honor.

9 MR. ORTIZ: No.

10 THE COURT: Mr. Sindler?

11 MR. SINDLER: No.

12 THE COURT: Sir, is there anything about anything  
13 you just described that you believe would in any way, shape or  
14 form affect your ability if you were picked for the jury to  
15 render a verdict, a just and fair verdict to all parties in  
16 this case based only on the evidence you hear in our courtroom  
17 here and the instructions I give?

18 JUROR NO. 48: Yes.

19 THE COURT: You'd be able to do that or something  
20 would get in the way?

21 JUROR NO. 48: No, I would be able to do that.

22 THE COURT: Mr. Sindler, any follow-up?

23 MR. SINDLER: No.

24 THE COURT: Mr. Ortiz and Ms. King?

25 MS. KING: No.

1 MR. ORTIZ: No.

2 THE COURT: Thank you very much for coming, sir.

3 (Juror No. 48 exits chambers.)

4 THE COURT: Mr. Sindler, any issues with cause for  
5 Juror 48.

6 MR. SINDLER: No.

7 THE COURT: Mr. Ortiz and Ms. King?

8 MS. KING: No.

9 THE COURT: 48 is in.

10 We'll take a brief pause.

11 Mr. Greer, if you tell Mr. Babik to just hold  
12 everyone for a few minutes.

13 Mr. Sindler, would you like any time with  
14 Mr. Warren, any time in a private setting?

15 MR. SINDLER: No. But I need a cord for an outlet.  
16 May I bring in my cord?

17 THE COURT: Yes.

18 (Mr. Sindler exited chambers.)

19 (Whereupon, there was a brief pause in the proceedings.)

20 THE COURT: Ms. Kienzle, we have taken a brief  
21 break. There have been no proceedings outside of the presence  
22 of the defendant.

23 Mr. Warren is present, as is his lawyer,  
24 Mr. Sindler.

25 Ms. King and Mr. Ortiz are present, as are court

1 staff and representative of the marshal service.

2           Mr. Ortiz, while we were on break, you advised the  
3 Court and Mr. Sindler of something that happened, and I  
4 suggested you raise it on the record for two reasons, one, so  
5 that it's on the record if there is anything anyone wants the  
6 Court to address, and secondly, so that it was in the presence  
7 of Mr. Warren.

8           Mr. Ortiz.

9           MR. ORTIZ: Your Honor, during the break I was in  
10 the men's restroom and the deputy marshal Ray, who I apologize,  
11 was in there with me. We had a brief conversation. I was  
12 asked approximately how much longer we needed, how many more  
13 jurors we needed, kind of the projected time frame we're  
14 looking at. That was basically the extent of it. Unbeknownst  
15 to me or to him there was potential juror that was in the stall  
16 in the men's restroom. So I just wanted to make everyone aware  
17 of that. There wasn't any interaction with him directly. That  
18 was Juror No. 16, the gentleman that works at the Allegheny  
19 County Jail, because we saw him after he left the restroom.

20           THE COURT: He was the gentleman who had been here  
21 earlier, he works for the intermediate unit but does teaching  
22 over at the county jail?

23           MR. ORTIZ: Exactly.

24           THE COURT: Is there anything, any action you  
25 believe the Court should take or needs to take in any way,

1 shape or form relative to that, Mr. Ortiz?

2 MR. ORTIZ: I'm making everybody aware.

3 THE COURT: Mr. Sindler, same question of you, sir?

4 MR. SINDLER: No.

5 THE COURT: The Court independently doesn't conclude  
6 that there is anything negative or prejudicial to the jury  
7 selection process or the trial of the action from that  
8 interaction. It sounds completely benign. It's appropriate  
9 that we put it on the record and put it on the record in the  
10 presence of Mr. Warren so that he has an opportunity to hear  
11 it.

12 THE DEFENDANT: Thank you, Your Honor.

13 THE COURT: Any reason we can't proceed with our  
14 jury selection process with prospective Juror No. 54?

15 I would also note it is a moment or two after four  
16 o'clock. By my count, there is one pending cause challenge to  
17 Juror No. 57. Putting that aside, there are currently 17 in  
18 the pool. We need to get to 32 to allow for the requisite  
19 strikes.

20 It would appear to the Court, absent some unusual  
21 turn of events, that within reasonable hours today we're not  
22 going to get to 32.

23 Does anyone believe that there's some reason that we  
24 should nonetheless soldier on other than if we only needed one  
25 or two more jurors at the end of the day?

1 Mr. Sindler, what do you think?

2 MR. SINDLER: We have 35 or 40 more minutes at least  
3 that we should take advantage of.

4 THE COURT: Absolutely. We'll keep going.

5 Mr. Ortiz and Ms. King?

6 MS. KING: Yes, we don't have anything.

7 THE COURT: Mr. Babik, do you want to bring Juror 54  
8 in.

9 (Juror No. 54 enters chambers.)

10 THE COURT: I do have a 4:45, it's a telephonic  
11 status conference. It's not time urgent, so we can bump that,  
12 if need be. By the same token, I want to be respectful of all  
13 the jurors' time.

14 MR. ORTIZ: The numbers you have --

15 THE COURT: Oh, yes. No. 12, No. 15, No. 18, No.  
16 21, and No. 38, five questions.

17 (Juror No. 54 enters chambers.)

18 THE COURT: Counsel, we have Juror 54. He has  
19 answered yes to five questions. The first is No. 12.

20 Sir, have you ever served as a juror in civil or  
21 criminal case or juror in any court?

22 JUROR NO. 54: Yes, I have. It was a county trial.

23 THE COURT: Here in Pittsburgh?

24 JUROR NO. 54: Yes. It was a criminal case. I  
25 think it was in Judge McDaniel's court. It has been got to be

1 at least 10, 15 years.

2 THE COURT: Were you actually selected for the jury?

3 JUROR NO. 54: Yes.

4 THE COURT: Did the case go to trial?

5 JUROR NO. 54: Yes.

6 THE COURT: Did it go to a verdict?

7 JUROR NO. 54: Yes, it did.

8 THE COURT: Were you the foreperson on the jury?

9 JUROR NO. 54: No.

10 THE COURT: Do you recall if it was a civil case or  
11 criminal case?

12 JUROR NO. 54: Criminal case.

13 THE COURT: Do you recall generally what the charges  
14 were in that case?

15 JUROR NO. 54: The charges were aggravated assault.  
16 We weren't told until after the trial that the defendant was an  
17 inmate, I don't remember what the prison was, but he assaulted  
18 another prisoner and charges were brought and that was the  
19 reason for the case.

20 THE COURT: That came out during the trial?

21 JUROR NO. 54: It came out after the trial. Well, I  
22 take that back, came out during the trial. What came out after  
23 the trial was that the defendant had refused to take his  
24 medication and at some point during the trial, he almost  
25 assaulted his attorney and they had to take him out.

1 THE COURT: In the courtroom?

2 JUROR NO. 54: In the courtroom. They weren't  
3 allowed to explain anything as this was happening until after  
4 the trial had completed.

5 THE COURT: Do you recall from the trial itself,  
6 were there any allegations relative to the charges that brought  
7 the trial to the courthouse that there were any weapons  
8 involved?

9 JUROR NO. 54: The weapon, that was involved with a  
10 shiv, a homemade knife.

11 THE COURT: The episode that unfolded in the  
12 courtroom, did that involve any weapons?

13 JUROR NO. 54: No.

14 THE COURT: Was there anything at all -- is that the  
15 only time you served as a juror?

16 JUROR NO. 54: Yes.

17 THE COURT: Was there anything at all about that  
18 service, that is, was that or is now noteworthy in positive or  
19 negative direction, either about service as a juror, our jury  
20 system or court system, judges, courts, lawyers, prosecutors,  
21 defense lawyers, witnesses, defendants, anything that is  
22 noteworthy to you today?

23 JUROR NO. 54: I looked at it as a very interesting  
24 experience, something I had never come across until that point.

25 THE COURT: Is there anything about that whole thing



1 that left a bad taste in your mouth in any way?

2 JUROR NO. 54: No.

3 THE COURT: Do you think having now gone through  
4 that, in this case, if you're picked to be on the jury, that  
5 you could render a verdict in this case, this very case based  
6 only on the evidence you hear in this courtroom and the  
7 instructions given to you in this case?

8 JUROR NO. 54: Absolutely.

9 THE COURT: No doubts about that?

10 JUROR NO. 54: No doubt at all.

11 THE COURT: Now, you also answered yes to Question  
12 15 that asked if you or anyone in your immediate family has  
13 ever been employed or sought to be employed by any part of the  
14 federal government other than military service, or any state,  
15 local county or federal law enforcement agency or a court in  
16 any paid or volunteer capacity.

17 What led to your yes?

18 JUROR NO. 54: Initially, my daughter's position as  
19 a pharmacist at a federal prison.

20 THE COURT: Is that in California?

21 JUROR NO. 54: Yes. I worked as a contractor --

22 THE COURT: She did have that job?

23 JUROR NO. 54: She has it now.

24 THE COURT: She works for the Federal Bureau of  
25 Prisons at Victorville as a pharmacist?

1 JUROR NO. 54: Yes. I worked as a contractor for  
2 the Department of Energy, not as a federal employee but as a  
3 contractor.

4 THE COURT: What type of contract work did you do?

5 JUROR NO. 54: We did IT work at the site in  
6 Bruceton, South Park. My sister-in-law and brother-in-law both  
7 work for -- my sister-in-law worked for the Department of Army  
8 and my brother-in-law worked for the Department of Army and  
9 then Department of Justice in D.C.

10 THE COURT: So your sister-in-law, what does she do  
11 for the Army?

12 JUROR NO. 54: She's -- actually, both my sister and  
13 brother-in-law worked in HR dealing with federal employees in  
14 the Department of Army and the Department of Justice.

15 THE COURT: Does your brother-in-law now work for  
16 the Department of Justice?

17 JUROR NO. 54: They're both retired.

18 THE COURT: What did he do with DOJ?

19 JUROR NO. 54: He was in HR, he dealt mainly with  
20 hiring and HR.

21 THE COURT: Do you know when that work came to an  
22 end?

23 JUROR NO. 54: His official date of retirement is  
24 September 11, 2001.

25 THE COURT: Now, the next question you answered yes

1 to was No. 18. That asks if you or a member of your immediate  
2 family has ever been the victim of a crime.

3 What led to that yes?

4 JUROR NO. 54: My wife had her purse stolen in  
5 August.

6 THE COURT: Of this year?

7 JUROR NO. 54: Yes.

8 THE COURT: Were the police involved in that  
9 situation?

10 JUROR NO. 54: Yes.

11 THE COURT: Did you report it or your wife reported  
12 it?

13 JUROR NO. 54: It happened at WalMart. Reported it  
14 to the security people at WalMart and they called the police in  
15 North Versailles.

16 THE COURT: Has that matter been resolved in any  
17 way?

18 JUROR NO. 54: Not that I know of.

19 THE COURT: Do you know if anybody has had any  
20 charges brought against them?

21 JUROR NO. 54: I do not.

22 THE COURT: What was your wife's loss in that  
23 regard?

24 JUROR NO. 54: Other than mostly aggravation, there  
25 were probably maybe \$100 worth of gift cards, very little cash,

1 credit cards, those were all stopped.

2 THE COURT: Any loss that was not covered by  
3 insurance?

4 JUROR NO. 54: Just the gift cards. We didn't even  
5 file a claim.

6 THE COURT: Were there any weapons or threats as  
7 part of that episode?

8 JUROR NO. 54: No.

9 THE COURT: Do you or your wife have any idea who  
10 committed that episode?

11 JUROR NO. 54: I do not. The police had video and  
12 saw a woman in the video, but if they were able to track her  
13 down, we were never notified.

14 THE COURT: Now, the next question you answered yes  
15 to was No. 21. That asked if you or anybody in your immediate  
16 family had been employed as a firefighter or affiliated with  
17 any fire department.

18 JUROR NO. 54: My father was a volunteer fireman for  
19 the better part of 60 years.

20 THE COURT: Where was that?

21 JUROR NO. 54: In Latrobe.

22 THE COURT: Latrobe, Pennsylvania. How did that  
23 service come to an end?

24 JUROR NO. 54: When he retired.

25 THE COURT: When he retired, was that in a situation

1 that was satisfactory to both him and the fire department?

2 JUROR NO. 54: Well, it was a volunteer position.

3 When he retired from his job at Kennametal, he stayed on as a  
4 volunteer firearm but at that point, there really wasn't a  
5 whole lot he could do as 65-year-old firefighter.

6 THE COURT: He left that activity on good terms?

7 JUROR NO. 54: Oh, yes.

8 THE COURT: Then you also answered yes to Question  
9 38 which asks whether you or anybody in your family owns or  
10 possess as firearm or ammunition, if so, what kind and for what  
11 purpose?

12 JUROR NO. 54: I had a 20-gauge single shot shotgun  
13 and a 16-gauge shotgun that I used to use for small game  
14 hunting.

15 THE COURT: Still possess those?

16 JUROR NO. 54: I do.

17 THE COURT: Do you now or have you ever possessed  
18 any type of handgun?

19 JUROR NO. 54: No.

20 THE COURT: Do you have a concealed carry permit?

21 JUROR NO. 54: I do not.

22 THE COURT: The long guns you have described, were  
23 they ever used for anything other than hunting or target  
24 practice?

25 JUROR NO. 54: No.

1 THE COURT: Mr. Sindler, any follow-up?

2 MR. SINDLER: How long ago was the case in front of  
3 Judge McDaniel in which you served as a juror?

4 JUROR NO. 54: This would only be a guess, but I  
5 would say at least 10 to 15 years. Possibly longer because now  
6 that I think about it, it was while I was still a contractor at  
7 the Department of Justice or at the Department of Energy and I  
8 have been away from there for 19 years, so it's probably been  
9 closer to 20 years.

10 MR. SINDLER: Were the deliberations during one day  
11 or more than one day?

12 JUROR NO. 54: Two days. The actual trial started  
13 on the afternoon that the jury was empanelled, case ran through  
14 the following morning, and the deliberations lasted through the  
15 end of the next day.

16 MR. SINDLER: Was there anything outstanding or  
17 something that stood out with regard to the deliberations part?

18 JUROR NO. 54: No, not really.

19 MR. SINDLER: Was the verdict -- what was the  
20 verdict was guilty?

21 JUROR NO. 54: It was guilty.

22 MR. SINDLER: That's all I have.

23 THE COURT: Mr. Ortiz and Ms. King?

24 MR. ORTIZ: Not from me.

25 MS. KING: No, Your Honor.

1 THE COURT: Thank you very much for coming in.

2 (Juror No. 54 exits chambers.)

3 THE COURT: Mr. Sindler, any cause issues with 54?

4 MR. SINDLER: No.

5 THE COURT: Mr. Ortiz and Ms. King?

6 MS. KING: No, Your Honor.

7 THE COURT: 54 is in the pool.

8 That brings us to Juror 50. She answered yes to

9 five questions; No. 5, No. 11, No. 15, No. 37, and No. 38.

10 (Juror No. 50 enters chambers.)

11 THE COURT: Counsel, we have Juror No. 50 with us.

12 She responded yes to several questions and we will now do some

13 follow-up on that.

14 The first one was Question No. 5. It was: Do you

15 know anybody else on the jury panel, me, the Judge, or any

16 member of the court's staff?

17 JUROR NO. 50: Yes, I know Jennifer, I went -- gosh,

18 I can't remember her married last name, it was Chrisman, we

19 went to college together.

20 THE COURT: Which college was that?

21 JUROR NO. 50: IUP.

22 THE COURT: How is it you remember her back from

23 college days?

24 JUROR NO. 50: We actually worked together at a

25 Denny's.

1 THE COURT: That was while you were in college at  
2 IUP?

3 JUROR NO. 50: Yes.

4 THE COURT: I don't mean to put you on the spot,  
5 about how many years ago was that?

6 JUROR NO. 50: I graduated in '96, I believe.

7 THE COURT: Have you had any contact with this other  
8 prospective juror since then?

9 JUROR NO. 50: Facebook contact and just talk, just  
10 a little bit of texting back and forth through Facebook, that's  
11 all.

12 THE COURT: Have you ever --

13 JUROR NO. 50: She does work at the church that my  
14 kids go to like youth group for.

15 THE COURT: So your kids are in a youth group at a  
16 church she works at?

17 JUROR NO. 50: Yes.

18 THE COURT: When did Facebook start up, involving  
19 your Facebook contact with her?

20 JUROR NO. 50: The last couple years.

21 THE COURT: Is that something you initiated or she  
22 initiated, if you recall?

23 JUROR NO. 50: Well, the thing is we had a little  
24 reunion for all of us who worked at Denny's.

25 THE COURT: About how long ago was that?



1 JUROR NO. 50: That was either last year or the year  
2 before that.

3 THE COURT: Did the Facebook get going as a result  
4 of that or it had already been going?

5 JUROR NO. 50: I really can't tell you.

6 THE COURT: Do the best you can. Have you ever  
7 socialized since then, met, gone out, gone to events, anything  
8 other than just hi, how are you?

9 JUROR NO. 50: No. Lunch today.

10 THE COURT: Was it just the two of you or were there  
11 others.

12 JUROR NO. 50: Just the two of us.

13 THE COURT: If it turned out that you and this other  
14 potential juror were selected for the jury, would you be able,  
15 in your mind, to view the evidence and the matters that I  
16 instructed the jury on separately and independently?

17 JUROR NO. 50: Oh, yes.

18 THE COURT: If it turned out that on a particular  
19 issue or even a verdict you and this other juror had a  
20 different point of view, how would the fact that you know this  
21 other juror influence you or affect you?

22 JUROR NO. 50: Not at all.

23 THE COURT: Why is that? It seems like you're  
24 confident about that.

25 JUROR NO. 50: Because I make my own decisions.

1 THE COURT: Now the next one you answered yes to was  
2 No. 11. It is is there any matter pending in your life about  
3 which you're concerned that would prevent you from devoting  
4 your full and undivided attention to this trial?

5 JUROR NO. 50: I started a new job, actually with  
6 the same company, but I moved into a new job in May.

7 THE COURT: Of this year?

8 JUROR NO. 50: Of this year. So, I'm just settling  
9 into the job. Of course, it's a lot of things on my mind. I  
10 have auditors coming, I have closing, it's just no matter what  
11 it's going to be in the back of my mind.

12 THE COURT: Let me ask you this. If it turned out  
13 you were selected for the trial and the trial took the balance  
14 of this week, what effect would that have on your thinking?

15 JUROR NO. 50: This week would be better than next  
16 week. Next week would be really bad.

17 THE COURT: So let me ask you this. If you were  
18 selected for the jury and the evidence had been concluded and I  
19 gave my instructions and the jury was sent off to deliberate,  
20 would you be able to be attentive to your duties as a juror no  
21 matter how long that took because I'll instruct the jury that  
22 its verdict, whatever its verdict is must be unanimous. Would  
23 you be able to be attentive during the entire period of the  
24 deliberations?

25 JUROR NO. 50: I would do my very best to, yes.

1           THE COURT: Do you have any reason to believe that  
2 no matter your intention to do your very best that you wouldn't  
3 be able to do your very best?

4           JUROR NO. 50: Not really, but sometimes -- I don't  
5 have any ADHD or anything.

6           THE COURT: You don't have any doubts you would be  
7 able to do your duties?

8           JUROR NO. 50: I should be able to do it.

9           THE COURT: Any reason to hesitate?

10          JUROR NO. 50: Not other than what I've told you  
11 already.

12          THE COURT: If it turned out that come Friday of  
13 this week, no matter when you had started, but come Friday of  
14 this week the jury was still deliberating, would you be able to  
15 proceed with the deliberations focusing only on the evidence  
16 presented in this trial and my instructions until the jury  
17 reached a unanimous verdict?

18          JUROR NO. 50: Yes. I'm done on Friday.

19          THE COURT: Unless the jury decides you're not.

20          JUROR NO. 50: Okay. Yes, I would be able to.

21          THE COURT: The next question that you answered yes  
22 to was No. 15. It was: Have you or any member of your  
23 immediate family ever been employed or sought to be employed by  
24 the federal government, other than the military or by any  
25 state, local or county or federal law enforcement agency or

1 court in a paid or volunteer capacity?

2 JUROR NO. 50: My brother-in-law is an attorney. He  
3 was working I believe for the Allegheny courthouse and I'm  
4 pretty certain he has applied for jobs here.

5 THE COURT: To do what, if you know?

6 JUROR NO. 50: I don't know the specifics.

7 THE COURT: Do you know what he does now as an  
8 attorney?

9 JUROR NO. 50: He worked at the attorney general's  
10 office for a while before his last job. I don't know  
11 specifics.

12 THE COURT: Do you know if his work then or  
13 currently takes him into court?

14 JUROR NO. 50: Yes.

15 THE COURT: Do you know if it takes him in very  
16 often?

17 JUROR NO. 50: I know on occasion he would come out  
18 to the Westmoreland County Courthouse.

19 THE COURT: Do you know if his work was of a civil  
20 nature or criminal nature?

21 JUROR NO. 50: I really don't know.

22 THE COURT: It's your brother-in-law?

23 JUROR NO. 50: Yes.

24 THE COURT: How often do you talk with him,  
25 ballpark?

1 JUROR NO. 50: Monthly to weekly. I talked to  
2 him -- texted him yesterday.

3 THE COURT: Did you tell him you were coming for  
4 jury duty?

5 JUROR NO. 50: I actually did not tell him I was  
6 coming. My sister knows, but I told him my son has a big  
7 soccer game. I always tell him that.

8 THE COURT: The next question you answered yes to  
9 was No. 37. That was: Do you have any strong feelings for or  
10 against or relating to the private ownership of firearms or  
11 laws regulating their possession or firearms themselves, such  
12 that you would be unable to render a fair and impartial verdict  
13 in this case based solely on the evidence presented and the  
14 legal instructions of the Court?

15 JUROR NO. 50: I just firmly believe in the right to  
16 own firearms. So, that's my only --

17 THE COURT: Do you believe that that belief would  
18 interfere with your ability to follow the evidence as presented  
19 in this court, in this trial, and my instructions as the judge?

20 JUROR NO. 50: No.

21 THE COURT: All the jurors that are ultimately  
22 selected and empanelled before they start their duties are  
23 going to be given an oath by my bailiff and in that oath, they  
24 will swear or affirm that they will truly and fairly render a  
25 verdict based only on the evidence in this case and the

1 instructions of the Court.

2 Do you believe for any reason, including those  
3 beliefs, you would have any difficulty following that oath?

4 JUROR NO. 50: No.

5 THE COURT: Now, the last question you said yes to  
6 was No. 38. It asked whether you or anybody in your family  
7 owned or possessed a firearm, if so what kind and for what  
8 purpose.

9 JUROR NO. 50: I personally do have a small Colt  
10 380.

11 THE COURT: Pistol?

12 JUROR NO. 50: Pistol. I've had it since I was in  
13 college. I used it for target shooting.

14 My husband does have different guns, but I don't  
15 know what.

16 THE COURT: Do you know --

17 JUROR NO. 50: My father has -- I come from a family  
18 of hunters.

19 THE COURT: Are they long guns, pistols, handguns,  
20 some of each?

21 JUROR NO. 50: I'd say some of each.

22 THE COURT: Do you have a concealed carry permit?

23 JUROR NO. 50: I do not.

24 THE COURT: Does your husband?

25 JUROR NO. 50: He definitely did. I don't know if

1 it recently expired.

2 THE COURT: What about the other members of the  
3 family you made reference to?

4 JUROR NO. 50: Actually, I think my father and  
5 mother both do.

6 THE COURT: To your knowledge, have either you  
7 personally or any of the other family members you referred to  
8 ever used their firearm for any purpose other than hunting or  
9 target shooting?

10 JUROR NO. 50: No.

11 THE COURT: Mr. Ortiz and Ms. King, do you have any  
12 follow-up questions for Juror No. 50?

13 MR. ORTIZ: Ma'am, you mentioned that you firmly  
14 believe in the right to own firearms; is that right?

15 JUROR NO. 50: Yes.

16 MR. ORTIZ: Are you aware there are certain laws  
17 that say that certain people aren't allowed to own or possess  
18 firearms.

19 JUROR NO. 50: I am now, yes.

20 MR. ORTIZ: Do you have any belief about the  
21 validity or the value of those laws concerning the fact that  
22 you believe people should own or possess firearms?

23 JUROR NO. 50: I understand that if you misuse a  
24 weapon, you shouldn't have the right to have it anymore, yes.

25 MR. ORTIZ: If the Court were to instruct you that

1 there are other reasons why someone isn't allowed to possess or  
2 own a firearm, could you follow the Court's instruction and  
3 apply it to this particular case?

4 JUROR NO. 50: Yes.

5 THE COURT: Even if it didn't involve the use of the  
6 firearm, if there was some other reason why someone couldn't  
7 possess a gun?

8 JUROR NO. 50: Yes.

9 THE COURT: Mr. Ortiz, any further follow-up?

10 MR. ORTIZ: I don't believe so.

11 THE COURT: Mr. Sindler?

12 MR. SINDLER: If we were here Friday afternoon  
13 deliberating, the majority or perhaps the other jurors are of a  
14 position different from yours, which meant the prospect or  
15 possibility of coming back on Monday, would that alone force  
16 you to change your mind because of the issue that is in the  
17 forefront of your mind with regard to your job and the position  
18 you now have with this company you work at?

19 JUROR NO. 50: No.

20 MR. SINDLER: Meaning?

21 JUROR NO. 50: It would not. That would be unfair.  
22 No. I would make my decision based on the evidence. I  
23 wouldn't let my personal position sway my decision.

24 MR. SINDLER: There might be other reasons to sway  
25 your decision, but that would not be a or the reason to sway



1 your decision, correct?

2 JUROR NO. 50: Correct.

3 MR. SINDLER: That's all I have.

4 THE COURT: Thank you very much.

5 Any follow-up to Mr. Sindler's question, Ms. King  
6 and Mr. Ortiz?

7 MS. KING: No.

8 MR. ORTIZ: No.

9 THE COURT: Thank you very much for coming in. I  
10 appreciate it.

11 (Juror No. 50 exits chambers.)

12 THE COURT: Mr. Sindler, sir, your position on  
13 cause?

14 MR. SINDLER: No.

15 THE COURT: Mr. Ortiz and Ms. King?

16 MS. KING: No.

17 THE COURT: Juror 50 is in.

18 That takes us to 66 who answered yes to 12, 15, and  
19 38.

20 Before 66 comes in, Ms. King and Mr. Ortiz, do you  
21 have any point of view on behalf of the United States about how  
22 long we should go today?

23 I'm not subcontracting out my decision, but I want  
24 to get the assessment of counsel.

25 MS. KING: I'm happy to go as long as we can, but I

1 think the jurors probably think they would be done at five, so  
2 I wouldn't want --

3 THE COURT: I'm good to go however long.

4 Mr. Sindler, any thoughts or views based on your  
5 experience, sir? See where we are?

6 MR. SINDLER: I do. I was going to say we should  
7 break after No. 66, but I think that we should not go any  
8 longer.

9 I agree with Ms. King that we should try to maximize  
10 the time here, but I don't know where there's a sense that the  
11 jurors are going to be here until five o'clock today. They  
12 have just been sitting there for a lengthy period of time.  
13 They seem to be comfortable, they're spreading out in the  
14 courtroom, chatting, but they have been confined there for the  
15 afternoon. I think that we should cut it at 4:40 or 4:45.

16 MS. KING: That's fine with the government.

17 THE COURT: I have 4:30, so why don't we bring 66 in  
18 and see where we are at the end of 66.

19 Does that work?

20 MR. SINDLER: Yes.

21 THE COURT: Ms. King and Mr. Ortiz?

22 MS. KING: Yes.

23 THE COURT: I have 12, 15, and 38.

24 (Juror No. 66 enters chambers.)

25 THE COURT: Counsel, we have Juror 66 here. He

1 answered yes to several questions. The first of which is  
2 No. 12.

3 Sir, that question just to refresh our memories was  
4 whether you had ever served as a juror in criminal or civil  
5 case or as part of a grand jury in either federal, state or  
6 county court. You answered yes.

7 JUROR NO. 66: Yes. Westmoreland County civil.  
8 There was a gentleman got left go, got fired from his company,  
9 he was 60 years old. He had age discrimination because they  
10 fired him. Then they hired two other guys to take his spot at  
11 less -- about half of what his salary was.

12 THE COURT: Were you actually picked for the jury?

13 JUROR NO. 66: Yes.

14 THE COURT: Case went to trial?

15 JUROR NO. 66: Yes.

16 THE COURT: Did it go all the way until the jury  
17 having to deliberate?

18 JUROR NO. 66: No.

19 THE COURT: It didn't. It ended short?

20 JUROR NO. 66: It ended short because the owner of  
21 the company came in the one day and that was the day that one  
22 of the gentlemen that they hired was explaining what he was  
23 doing and he talked to the lawyers and next thing you know,  
24 they disappeared, the Judge disappeared. An hour later they  
25 came out and said, we're done. We thank you for your duty.

1 THE COURT: Was anyone even picked as a foreperson  
2 or foreman?

3 JUROR NO. 66: No.

4 THE COURT: Is that the only time you have been on  
5 any type of jury?

6 JUROR NO. 66: That was the only time. The other  
7 two times I went down there --

8 THE COURT: About how long ago was this trial where  
9 you were picked?

10 JUROR NO. 66: About six, seven years.

11 THE COURT: Was there anything at all about that  
12 process, being on a jury, how you were picked, lawyers, judges,  
13 courthouse people, being in court, the system as a whole,  
14 anything about that that left a bad taste in your mouth?

15 JUROR NO. 66: No.

16 THE COURT: If you were picked for this jury, would  
17 you be able to render a verdict in this case based only on the  
18 evidence you heard here in this courtroom and the instructions  
19 I gave in this case?

20 JUROR NO. 66: Yes.

21 THE COURT: Nothing from the prior time would carry  
22 over?

23 JUROR NO. 66: No.

24 THE COURT: Now, the next question you answered yes  
25 to was No. 15. That asks whether you or anybody in your

1 immediate family has ever been employed or sought to be  
2 employed by the federal government, other than the military, or  
3 by any state, local, county or federal law enforcement agency  
4 or court in a paid or volunteer capacity?

5 JUROR NO. 66: My brother-in-law was for 32 years in  
6 the -- between the state -- he started out in Washington Police  
7 Department, then he came to Pennsylvania, and he ended up in  
8 the Pennsylvania Bureau of Investigation, PBI, for his last 20  
9 years.

10 THE COURT: Is he now retired?

11 JUROR NO. 66: He retired, then he had a bad  
12 motorcycle accident and he died two years later. It was about  
13 five years ago.

14 THE COURT: So it was about seven years ago then  
15 that his work in that area ended?

16 JUROR NO. 66: Yes.

17 THE COURT: Was that situation the only reason you  
18 answered yes to this question?

19 JUROR NO. 66: Yes.

20 THE COURT: Now, was there anything about his  
21 service or the work that he did that you think would get in the  
22 way of you judging this case based only on the evidence in our  
23 courtroom and the instructions I give?

24 JUROR NO. 66: No. Because he was tight mouthed  
25 about everything. He didn't say anything, even to his wife.

1 THE COURT: Is there anything about his service in  
2 law enforcement that you think gives you a point of view, pro  
3 or con, on people that are in law enforcement or people that  
4 are charged with crimes?

5 JUROR NO. 66: No.

6 THE COURT: Now, the next question you answered yes  
7 to was 38. It asks whether you or anybody in your family owns  
8 or possesses a firearm or ammunition, if so, what kind and for  
9 what purpose?

10 JUROR NO. 66: I have a British 303. That's my deer  
11 gun. I have a 12-gauge shotgun. I got a 22 Remington rifle,  
12 and I have a BB pistol. I live out in the country. So, I get  
13 to use it.

14 THE COURT: What do you use the BB pistol for?

15 JUROR NO. 66: Chipmunks.

16 THE COURT: Do you have a concealed carry permit?

17 JUROR NO. 66: No.

18 THE COURT: Have you ever used any of those firearms  
19 that you've described or any other firearms for any purpose  
20 other than hunting or target practice?

21 JUROR NO. 66: No.

22 THE COURT: Was there any other ownership of  
23 firearms in your family that caused you to answer yes to that  
24 question?

25 JUROR NO. 66: No. I'm the only one out of all the

1 five kids that took up hunting.

2 THE COURT: Mr. Sindler, any follow-up?

3 MR. SINDLER: As you can imagine, there are going to  
4 be several police officers or law enforcement types testifying  
5 in this case. Your relationship with your former or late  
6 brother-in-law, you're saying will have no influence whatsoever  
7 in how you view this case?

8 JUROR NO. 66: Right.

9 MR. SINDLER: That's all I have.

10 THE COURT: Mr. Ortiz and Ms. King?

11 MS. KING: No questions.

12 MR. ORTIZ: No.

13 THE COURT: Sir, thank you very much.

14 (Juror No. 66 exits chambers.)

15 THE COURT: Mr. Ortiz and Ms. King, anything on  
16 cause with 66?

17 MS. KING: No, Your Honor.

18 MR. ORTIZ: No.

19 THE COURT: Mr. Sindler?

20 MR. SINDLER: No.

21 THE COURT: 66 is in. That's 20.

22 No. 15 who is the last one on my sheet, had one yes  
23 to No. 12. How about we do him?

24 (Juror No. 15 exits chambers.)

25 THE COURT: We have Juror 15 with us. He gave a yes

1 answer to one question.

2           That question was No. 12. It asks, sir, have you  
3 ever been a juror in a criminal case, a civil case or a grand  
4 jury and state, federal or county court?

5           JUROR NO. 15: Right.

6           THE COURT: Tell us what you knew.

7           JUROR NO. 15: It was approximately -- sometime ago,  
8 about 20 years ago. County, Beaver County. The case involved  
9 AN insurance company against someone for a settlement.

10          THE COURT: Did the case actually go to trial?

11          JUROR NO. 15: Yes.

12          THE COURT: Were you actually picked to be on the  
13 jury?

14          JUROR NO. 15: Yes.

15          THE COURT: Did it go all the way through so the  
16 jury had to deliberate?

17          JUROR NO. 15: Yes.

18          THE COURT: Did it reach a verdict?

19          JUROR NO. 15: Yes.

20          THE COURT: Were you the foreperson on the jury?

21          JUROR NO. 15: No.

22          THE COURT: That's the only time you have been a  
23 juror?

24          JUROR NO. 15: Yes.

25          THE COURT: Was there anything in any way, shape or



1 form about that experience that left a bad taste in your mouth  
2 toward being on a jury, the jury system, the court system,  
3 lawyers, parties to litigation, court personnel, anything at  
4 all that left you with a negative sense of things?

5 JUROR NO. 15: No, there was not.

6 THE COURT: Anything that you found uncomfortable or  
7 disquieting about that service as a juror?

8 JUROR NO. 15: No.

9 THE COURT: You sat through that trial as a juror.  
10 If you're picked in this case to be on the jury, do you  
11 believe -- was there anything that would get in the way of you  
12 rendering a verdict in this case based only on the evidence  
13 presented in this case and the instructions I give in this  
14 case, putting aside everything that happened at that trial?

15 JUROR NO. 15: No, there would not be.

16 THE COURT: You would be able to do that?

17 JUROR NO. 15: Yes.

18 THE COURT: Mr. Ortiz and Ms. King, any follow-up?

19 MS. KING: No, Your Honor.

20 MR. ORTIZ: No, Your Honor.

21 THE COURT: Mr. Sindler?

22 MR. SINDLER: No.

23 THE COURT: Thank you very much for coming in.

24 (Juror No. 15 exits chambers.)

25 THE COURT: Mr. Sindler, anything for cause on this

1 juror?

2 MR. SINDLER: No.

3 THE COURT: Mr. Ortiz and Ms. King?

4 MS. KING: No.

5 MR. ORTIZ: No.

6 THE COURT: 15 is in.

7 Why don't we take a moment and recap.

8 My notes show that the following jurors are in the  
9 pool: 38, 7, 28, 5, 34, 16, 47, 24.

10 There is a pending cause challenge on 57.

11 8, 27, 20.

12 56 has been stricken.

13 13 has been stricken.

14 52 is in.

15 53, 21, 41.

16 10 has been stricken.

17 48 is in.

18 54 is in.

19 50 is in.

20 66 is in.

21 15 is in.

22 I made a mistake, I believe 56 is in as Juror No.  
23 12, so they're in.

24 The ones that are stricken -- 57 has a pending cause  
25 challenge, so I'm not counting that juror in the pool at the

1 moment. 13 was stricken, based on the letter and the  
2 information that was brought to the Court's and counsel's  
3 attention. 10 has been stricken for cause.

4 Balance of the jurors that we've interviewed are in  
5 the pool, leaving us with 21 in the pool, 11 to go.

6 MS. KING: I agree with that. I just wanted to  
7 bring to the Court's attention, I think I recall seeing Juror  
8 No. 10 after she was stricken still here in the hallway, which  
9 is fine, but she should be just alerted she doesn't have to  
10 come back tomorrow.

11 MR. BABIK: When I took her out in the hallway, she  
12 was crying pretty badly. I let her go down to the restroom. I  
13 didn't know she was stricken yet at that point. When I came  
14 back in, that's when I learned she was stricken. I went back  
15 out to check, she still wasn't back yet. So after the break I  
16 went back out, she was finally back, so I didn't dismiss her  
17 until after our break.

18 THE COURT: Has she been sent home?

19 MR. BABIK: I sent her back to the jury assembly  
20 room to let them know she has been dismissed from our selection  
21 and she's in their hands at that point.

22 THE COURT: Does anyone need anything further on the  
23 record about Juror No. 10?

24 MR. SINDLER: No.

25 THE COURT: I have 4:40. Based on our prior

1 discussion, I think this would be an appropriate time to  
2 suspend the jury selection process.

3 Do you concur, Mr. Sindler?

4 MR. SINDLER: I do.

5 THE COURT: Mr. Ortiz and Ms. King?

6 MS. KING: Yes.

7 MR. ORTIZ: Yes.

8 THE COURT: It would be my intention to have  
9 Mr. Babik return to the courtroom and have him tell the jurors  
10 they're to return tomorrow and to be available.

11 Do you want to start here?

12 Marshals, what time would Mr. Warren be available?

13 THE MARSHALL: They have requested to have him  
14 brought over at 8:00 a.m. Unfortunately, this morning, they  
15 had to make two trips. They had to bring the female  
16 separately, they brought the female first and then the male  
17 prisoners. So if all goes well, we will be here by eight.

18 THE COURT: Do you want to start at nine or  
19 nine-thirty tomorrow, counsel?

20 MS. KING: I prefer nine.

21 MR. SINDLER: Nine is preferable.

22 THE COURT: That's consistent with when jurors are  
23 normally told to be here.

24 If we can have them in our courtroom at 8:45.

25 My thought would be we'll begin exactly as we did

1 here, Mr. Warren and counsel will come directly back here,  
2 unless there's something you want to do in open court  
3 beforehand or think we need to do.

4           Mr. Ortiz and Ms. King, any reason we need to  
5 convene in the courtroom?

6           I want to make sure Mr. Warren is here first and we  
7 don't let the jury in before that.

8           MS. KING: We do want to resolve the stipulation  
9 issues and it might be best to do that either right now after  
10 the jury is dismissed or in the morning before selection  
11 begins.

12           THE COURT: Obviously, if we're doing that in the  
13 courtroom --

14           MR. ORTIZ: Judge, I think, if I may, to the extent  
15 we need to make a record of anything, I think we can certainly  
16 do it here, with your permission. We brought the records that  
17 we referenced in court to show Mr. Sindler, so presumably  
18 things can be worked out.

19           THE COURT: Mr. Sindler, how do you want to handle  
20 the morning, resume right back in here?

21           MR. SINDLER: Sure.

22           THE COURT: Does anyone have any objection if the  
23 Court does not retake the bench, instructs his clerk,  
24 Mr. Babik, to instruct the jury that we're recessing for the  
25 day and that everybody that has not been stricken is to report

1 back directly to this courtroom at 8:45 tomorrow morning with  
2 the anticipation that we would start back here at 9:00 a.m.

3 Mr. Sindler, does that work for you?

4 MR. SINDLER: That's fine.

5 Are you telling them to take the seats they were  
6 taking today? Does that matter?

7 THE COURT: Now that we know what order we're taking  
8 them in, I don't know that they specifically need -- are they  
9 seated still next to each other?

10 MR. BABIK: They're kind of standing around at this  
11 point.

12 MR. SINDLER: It doesn't matter.

13 THE COURT: We know the order they were in.

14 Mr. Ortiz, does that plan work for you and Ms. King?

15 MR. ORTIZ: Yes.

16 THE COURT: We'll resume in the morning.

17 Ms. King, we're now done with jury selection for  
18 today. Ms. King and Mr. Ortiz, are there any other matters you  
19 want to bring to the Court's attention?

20 MS. KING: We did indicate earlier we had the  
21 certified copy of the defendant's conviction. I'll just point  
22 out for the record that this was provided with the Rule 16  
23 materials at the beginning of this case. I have just one copy,  
24 this is the only certified copy that I have. And it's from  
25 Baltimore, which is why it looks different than the records we

1 are used to here.

2 MR. SINDLER: It may have been provided. I just  
3 wasn't here at the beginning of the case, so it was one thing  
4 that may not have made it from Mr. Shoemaker because he was  
5 somewhat cooperative, but I don't recall seeing this before.

6 MS. KING: If I can be helpful, I can explain what  
7 you're looking at.

8 MR. SINDLER: I have a sense of it.

9 THE COURT: Is this one of these things where one  
10 person with the seal certifies somebody else that has a seal  
11 who certifies somebody else that has a seal?

12 MS. KING: There were three victims in this case, so  
13 it was three individual case numbers, but we are treating it  
14 essentially as the same case.

15 MR. SINDLER: If I can have a moment to speak with  
16 Mr. Warren, and then I don't need it right now, if I can get  
17 copies because I don't have them.

18 MS. KING: I can e-mail it to you today.

19 MR. SINDLER: Should we do it in the anteroom?

20 THE COURT: Whatever is fine with the marshals.

21 THE MARSHAL: It is much easier than going anywhere  
22 else.

23 THE COURT: If it's good with all of you, it's good  
24 with the Court.

25 (Defendant exits chambers with Mr. Sindler.)

1 (Whereupon, there was a brief pause in the proceedings.)

2 THE COURT: Mr. Warren is back along with his  
3 lawyer, Mr. Sindler.

4 While you were out, there was no discussion  
5 regarding the case. There were several questions from  
6 Mr. Ortiz about several of the photographs in the Court's  
7 office which I explained their origin.

8 Mr. Sindler.

9 MR. SINDLER: Mr. Warren and I have discussed the  
10 material concerning the stipulation with regard to the prior  
11 conviction. We're okay or we're consenting to the government's  
12 stipulation, our stipulation with respect to not having to go  
13 down the road of using this material that Ms. King has shown me  
14 just moments ago. So, that's where we are on the record. I'm  
15 okay with the stipulation as it was created. I don't know if  
16 you're familiar with it.

17 THE COURT: I heard Ms. King read it in court this  
18 morning.

19 MS. KING: I have a copy.

20 MR. SINDLER: Mine is out there on the table, so I  
21 don't have it here in chambers.

22 So, Judge, what you have in front of you, although  
23 it's not marked, this is the joint stipulation material that  
24 Ms. King provided me earlier this month. If your attention is  
25 focused upon Paragraph No. 1, that's where we are.



1           So, we're okay with that stipulation, in addition to  
2 what is No. 2. But No. 2 was something that we talked about  
3 earlier today on the record. So we're not talking right now  
4 about that. That has been resolved, as I understand it.

5           THE COURT: So as I understand it, at an appropriate  
6 juncture in the case, the joint stipulations that is, the  
7 content of Paragraph 1 and the content of Paragraph 2, not the  
8 introductory paragraph, the content of No. 1 and the content of  
9 No. 2 would be read to the jury as a stipulation?

10          MS. KING: Yes, Your Honor.

11          THE COURT: The Court would instruct the jury that a  
12 stipulation means that no further evidence is required of the  
13 matter set forth in the stipulation. The jury at all times  
14 remains the judge of the facts and they are -- it's their  
15 responsibility and their responsibility alone to determine what  
16 the facts are, even the facts that have been stipulated to.

17          MR. SINDLER: That's fine. But as, unfortunately, a  
18 caveat, we still have to decide a jury instruction, which I  
19 think follows from 4.06 of the Third Circuit Model Criminal  
20 Jury Instructions that Ms. King wants to have read into the  
21 record or have you read as part of that. So, even though I'm  
22 agreeing to this stipulation, and I am, there's still a jury  
23 instruction out there that I also don't have in front of me  
24 right now --

25          THE COURT: That we need to resolve.

1 MR. SINDLER: That is still pending. That's all I'm  
2 saying.

3 THE COURT: All I ask is counsel confer with each  
4 other as to the time, the juncture in the trial when the  
5 stipulation would be read, and if there is an instruction you  
6 would like me to give the jury at the time of the stipulation  
7 is read as to what a stipulation is. I'm happy to do that or  
8 not.

9 In civil trials and I think in one criminal trial  
10 when there was a stipulation read, I gave a brief definitional  
11 statement to the jury that parrots what is in the opening  
12 instructions that I'll be giving tomorrow.

13 Does that work for you, Mr. Sindler?

14 MR. SINDLER: Yes.

15 THE COURT: Counsel confers as to the juncture when  
16 this will happen.

17 Ms. King and Mr. Ortiz, anything else we should take  
18 care of today?

19 MR. ORTIZ: No, Your Honor.

20 MS. KING: No, Your Honor.

21 THE COURT: Mr. Sindler, anything you think we  
22 should take care of today?

23 MR. SINDLER: No.

24 THE COURT: Now, let's talk a little scheduling of  
25 the day tomorrow. Once we get the jury selected and sworn,

1 we'll see what time it is, but my thought would be once that  
2 occurs, unless it's the natural time for lunch, and I'm not  
3 saying it will take that long, but unless it's the time for the  
4 lunch break, I would give a jury recess, I would give them the  
5 admonition about not discussing and not researching, have Brian  
6 take them up to the jury room, let them be familiar with where  
7 it is and the set up there and the process of going up there.  
8 That would also give counsel some time to get themselves  
9 organized in the courtroom so we could proceed with the opening  
10 statements.

11 Does that make sense to you, Mr. Ortiz and Ms. King?

12 MS. KING: Yes.

13 THE COURT: Does that work for you, Mr. Sindler?

14 MR. SINDLER: Sounds good.

15 THE COURT: Is there anything other than the oral  
16 presentation of a lawyer that is going to be used during  
17 anyone's opening statement?

18 MR. ORTIZ: I would check with the marshals that are  
19 in the courtroom at the time, but there's a chance I may  
20 display the firearm.

21 THE COURT: It will be cleared and wired and all  
22 that stuff?

23 MR. ORTIZ: Absolutely.

24 THE COURT: Other than that, is there anything other  
25 than your oral statements to the jury and the possibility of

1 displaying the firearm that you intend on using in your  
2 opening, Mr. Ortiz?

3 MR. ORTIZ: No.

4 THE COURT: Mr. Sindler?

5 MR. SINDLER: No.

6 THE COURT: I do not place time limits on opening  
7 statements or closing arguments as long as they're within  
8 reason and are not duplicative and don't change the drift from  
9 opening statement to closing argument or the closing argument  
10 gets repetitive. That's not an invitation to make it a  
11 marathon, I don't think either of you will, but I also want you  
12 to know I intend on letting you do your job in your opening  
13 statement.

14 Mr. Sindler, it's your current intention to deliver  
15 your opening statement immediately on conclusion of Mr. Ortiz?

16 MR. SINDLER: Yes.

17 THE COURT: If that changes, let Mr. Ortiz know.  
18 Anything else, we should take up?

19 MR. SINDLER: No.

20 THE COURT: Mr. Greer, would you please go out and  
21 make sure that the doorways into the courtroom and that area  
22 are closed and secured and cleared and then alert the marshals  
23 that has been accomplished.

24 Ms. King, if you want authority, you can file this  
25 joint stipulation under seal without the need for redaction so

1 that it has an ECF number when we're referring to it. It would  
2 be unsealed once it has been read into the record, but I don't  
3 know who has Pacer accounts, so that's why things like this, I  
4 authorize to be sealed until they come live in open court.

5 Is that agreeable with you, Ms. King?

6 MS. KING: Yes, Your Honor.

7 THE COURT: Does that work for you, Mr. Sindler?

8 MR. SINDLER: That's fine.

9 MS. KING: I don't think that can happen today.

10 THE COURT: I'm thinking to get an ECF number on it.

11 MR. ORTIZ: The clerk's office might tell us we need  
12 an order from you to file it under seal.

13 THE COURT: I have given you a signed order that  
14 authorizes you to file this under seal without the need for  
15 redaction. You can show that to whoever needs to see it. Then  
16 you have the order.

17 Anything else we need to put on the record,  
18 Mr. Ortiz and Ms. King?

19 MS. KING: No, Your Honor.

20 THE COURT: Mr. Sindler?

21 MR. SINDLER: No.

22 THE COURT: That will conclude the proceedings for  
23 today, Monday, October 26th.

24 The marshals can assist Mr. Warren.

25 Mr. Warren, we'll see you tomorrow.

1 (Court adjourned.)

2  
3 CERTIFICATE

4  
5 I, Juliann A. Kienzle, certify that the foregoing is  
6 a correct transcript from the record of proceedings in the  
above-titled matter.

7 s/Juliann A. Kienzle, RMR, CRR

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9 Juliann A. Kienzle, RMR, CRR

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